933

GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT.

BY ORDER OF THE LIEUTENANT GOVERNOR OF BENGAL FORWARDED TO BENGAL SECRETARIAT LIBRARY

THE

PUNJAB CODE:

CONSISTING OF THE UNREPEALED

BENGAL REGULATIONS,

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL,

AND

REGULATIONS MADE UNDER THE STATUTE 33 VICTORIA, CAP. 3,

IN FORCE IN

THE PUNJAB;

WITH

AN APPENDIX

CONTAINING

RULES FOR THE CONSERVANCY OF FORESTS IN THE HILL DISTRICTS,

AND

THE NOTIFICATIONS ISSUED UNDER THE SCHEDULED DISTRICTS ACT, 1874.

SECOND EDITION.

CALCUTTA:
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1888.

Price Five Rupees.

PREFACE.

THIS, the second edition of the Punjab Code, contains (1) the unrepealed Bengal Regulations in force in the Punjab, (2) the unrepealed local Acts of the Governor General in Council in force in that province, (3) the Regulations for certain districts in the Punjab made under the Statute 33 Vic., cap. 3, and (4), in an Appendix, certain Rules for the conservancy of forests and the notifications issued under sections 3 and 5 of the Scheduled Districts Act, XIV of 1874, declaring enactments in force in, and extending enactments to, the Scheduled Districts of the Punjab.

2. To the tables of contents prefixed to this volume a column has been added shewing all repeals and amendments affecting the Punjab, and the footnotes to the enactments have in most cases been amplified for convenience of reference.

3. The new matter in this edition is based on the official copies of the Acts of the Supreme Council and of the Regulations made under 33 Vic., cap. 3, preserved in the Legislative Department. The volume does not, however, purport to be an authoritative re-print of any of the matter which it contains.

4. The following changes have been made in re-printing Regulations and Acts :—

(*a*) Sections which have been entirely repealed have been omitted, but, for convenience of reference, the marginal notes or short abstracts of the subject-matter so repealed, have been printed, with a note citing the repealing enactment. Where only part of a section has been repealed, the repealed matter has been omitted, and a footnote has been inserted explaining the omission.

(*b*) Where an enactment directs that a section, a clause or words be inserted in a former Regulation or Act, such insertion has been made in re-printing the latter, and a reference to the amending enactment has been given in a footnote.

(*c*) Where a Regulation or Act refers to another, and such reference is directed by a subsequent enactment to be read as if made to that enactment, the latter has, as a rule, been substituted in the text, and a footnote has been inserted referring to the authority for making the substitution.

(*d*) The marginal notes to the enactments have in some instances been newly inserted, shortened or corrected.

(*e*) The number and year of enactments referred to in the text have been noted in the inner margin, except when both appear in the text.

(*f*) The spelling of the word "Panjáb" employed in the older Acts and Regulations has been uniformly altered to "Punjab."

5. The footnotes given in this volume are chiefly the references mentioned in clauses (*a*), (*b*) and (*c*) of paragraph 4 above, cross-references to Regulations and Acts and references to Gazette Notifications, bringing enactments into force or extending the same.

6. The Code contains only those Acts of the Governor General in Council which are in force in the Punjab and have not been inserted in the volumes of Unrepealed General Acts of the Governor General in Council published by this Department. The latter volumes contain all unrepealed Acts which extend or are extendible to the whole of British India or to the three Presidency-towns, and the Chronological Tables prefixed to them show all repealed Local and General Acts which have been from time to time in force in the Punjab.

7. The Criminal Tribes Acts, XXVII of 1871 and VII of 1876, have been printed in this Code, as they are really local in their operation, though containing one or two sections applicable to the whole of British India.

8. The following enactments have been omitted from this edition :—

Act XXI of 1857, sections 10—15 (Public Gambling), as no longer in practical operation ;

Act IV of 1873 (Municipalities), as practically repealed by Act XIII of 1884;

Act V of 1878 (Local Rates), as no longer in practical operation, having been repealed by Act XX of 1883 in every district except Simla, where it is not enforced ; and

Regulation I of 1871 (Peshawar District Limitation), as spent; the settlement-operations in the Pesháwar district having been declared to have ceased.

9. The work connected with the preparation of this volume devolved upon Mr. C. H. Oertel, Barrister-at-law, of this Department.

10. This edition has been corrected up to the 30th April, 1888.

J. M. MACPHERSON,

Deputy Secretary to the Govt. of India,
Legislative Department.

SIMLA ;
The 1st May, 1888.

TABLES OF CONTENTS.

PART I.—BENGAL REGULATIONS IN FORCE IN THE PUNJAB.

[NOTE.—A repeal is not rendered ineffective by a subsequent repeal of the repealing enactment—see Act I of 1868, s. 3 (1); the repeals of repealing enactments cited in the fourth column of the Tables have not therefore been noticed.]

Year.	No.	Subject or short title.	Repeals and amendments affecting the Punjab.	Page.
1798	I	Conditional Sales of Land .	Will be repealed when Act IV of 1882 is extended to the Punjab—see s. 2, and Sch. (c), *ib.*	1
1804	X	Punishment of State Offences by Courts-martial	Rep., in part, XVI of 1874, s. 1 and Sch., Pt. VI.	3
1806	XVII (ss. 7 & 8).	Redemption and Foreclosure of Mortgages.	Will be repealed when Act IV of 1882 is extended to the Punjab—see s. 2, and Sch. (c), *ib.*	5
1818	III	State-prisoners . .	Rep., in part, XVI of 1874, s. 1 and Sch., Pt. VI. Amended, XXXIV of 1850.	6
1825	XI	Alluvion and Diluvion .	.....	9

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE PUNJAB.

[See Note to the Table above.]

Year.	No.	Subject or short title.	Repeals and amendments affecting the Punjab.	Page.
1854	XXVI	Education of Minors .	.....	13
1856	XX	Chaukidárs . . .	Rep., in part, XIV of 1870, s. 1 and Sch., Pt. II. X of 1872, s. 2 and Sch. I, Pt. II. and amended, XXII of 1871. Rep. (when and where notified by Local Government), XX of 1883, s. 69.	15

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE PUNJAB—*continued.*

Year.	No.	Subject or short title.	Repeals and amendments affecting the Punjab.	Page.
1858	XL	Minors	Rep., in part, XIV of 1870, s. 1 and Sch., Pt. II.	29
1867	III	Public Gambling . .	Rep., in part, XVI of 1874, s. 1 and Sch., Pt. I.	34
„	XXIII	Murderous Outrages .	Rep., in part, XVI of 1874, s. 1 and Sch., Pt. I Revived and amended, IX of 1877.	38
1870	XXVI	Prisons . . .	Rep., in part, XII of 1873, s. 1 and Sch., Pt. II; XVI of 1874, s. 1 and Sch., Pt. I.	41
1871	XXII	Chaukidárs . . .	.....	55
„	XXVII	Criminal Tribes and Eunuchs	Rep., in part, XVI of 1874, s. 1 and Sch., Pt. I; XII of 1876, s. 1 and Sch., Pt. I. Amended, VII of 1876.	57
1872	IV	Laws . . .	Rep., in part, I of 1878, s. 2 and Sch.; VI of 1878, s. 2 and Sch.; X of 1879, s. 2; IV of 1882, s. 2 and Sch. (*b*) (when brought into force in Punjab); X of 1882, s. 2 and Sch. I (*b*); XVII of 1887, s. 2 and Sch. and amended, XII of 1878. Amended, XV of 1875, ss. 2 and 3; XXIV of 1881.	63
1873	VIII	Canals and Drainage .	Rep., in part, XII of 1873, s. 1 and Sch., Pt. II; XVI of 1874, s. 1 and Sch., Pt. I; XVI of 1887, s. 3 and Sch.	79

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE PUNJAB—*continued.*

Year.	No.	Subject or short title.	Repeals and amendments affecting the Punjab.	Page.
1874	XIII	European British Minors	.....	103
1875	XV	Laws (amending Act IV of 1872).	.....	112
1876	VII	Criminal Tribes and Eunuchs (amending Act XXVII of 1871).	.....	113
1877	IX	Revival of Act XXIII of 1867 (Murderous Outrages).	.....	*ib.*
"	XVII	Courts	Rep. (except s. 18), XVIII of 1884, s. 2 and Sch.	114
1878	XII	Laws (amending Act IV of 1872).	Rep., in part, X of 1879, s. 2.	*ib.*
"	XVII	Ferries (Northern India) .	Amended, XX of 1883, ss. 78 and 79; III of 1886.	115
1879	XIV	Hackney Carriages . ..	.....	124
"	XX	Glanders and Farcy .	.....	127
1880	XIII	Vaccination . . .	.....	130
1881	XXII	Excise	Amended, VI of 1885; IX of 1885, s. 2; II of 1887, ss. 5 and 6.	136
1881	XXIV	Laws (amending Act IV of 1872).	.....	151
1882	XIX	University . . .	.....	152
1883	XIII	Indus Valley State Railway Lands.	.....	162
"	XX	District Boards . .	.....	163
1884	XIII	Municipalities . .	.....	187
"	XIV	Validation of Settlement-officers' Decisions.	.....	239
"	XVIII	Courts	Rep., in part, VII of 1887, s. 10; XVI of 1887, s. 3 and Sch.; XVII of 1887, s. 2 and Sch.	241

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE PUNJAB—*concluded.*

Year.	No.	Subject or short title.	Repeals and amendments affecting the Punjab.	Page.
1885	VI	Excise (amending Act XXII of 1881).	.....	256
"	IX	Excise (amending Act XXII of 1881).	.....	257
1886	I	Lahore Tramways . .	.....	*ib.*
"	III	Ferries (amending Act XVII of 1878).	.....	272
1887	II	Excise (amending Act XXII of 1881).	.....	*ib.*
"	XVI	Tenancies . . .	Extended to Hazára District with modifications, Reg. XIII of 1887.	273
"	XVII	Land-revenue . .	.....	316

PART III.—REGULATIONS MADE UNDER 33 VICTORIA, CAP. 3.

[See Note to the first Table on p. vii.]

Year.	No.	Subject.	Repeals and amendments affecting the Punjab.	Page.
1872	I	Frontier . . .	Rep., in part, Reg. IV of 1873, s. 1; Reg. IV of 1887, s. 2 and Sch.; XVII of 1887, s. 2 and Sch. Rep., in part (Hazára District), Reg. II of 1873 (as revived and continued by Reg. V of 1874); Reg. III of 1873, s. 4; Reg. II of 1874, ss. 2 and 5;	367
1873	I	Spití	.....	373
"	VII	Frontier Crossing . .	.....	375

PART III.—REGULATIONS MADE UNDER 33 VICTORIA, CAP. 3—*continued.*

Year.	No.	Subject.	Repeals and amendments affecting the Punjab.	Page.
1874	I.	Frontier Grazing . .	.....	376
"	II	Hazára Settlement Rules, (amending Reg. I of 1872).	.....	378
"	VII	Frontier Jagir Revenue Collection.	.....	379
1879	II	Hazára Forests . .	.....	380
1887	IV	Frontier Crimes . .	.....	390
"	XIII	Hazára Tenancies . .	.....	406

APPENDIX.

PART I.—RULES FOR THE CONSERVANCY OF FORESTS IN THE PUNJAB.

Year.	No.	Subject or short title.	Repeals and amendments affecting the Punjab.	Page.
1855	...	Rules for the Conservancy of Forests.	.....	407

PART II.—NOTIFICATIONS UNDER THE SCHEDULED DISTRICTS ACT, 1874, SECTIONS 3 AND 5.

Description.	Page.
I.—ALL SCHEDULED DISTRICTS—	
(a) Enactments declared in force	409
(b) Enactments extended	410
II.—THE SCHEDULED DISTRICTS OF HAZÁRA, PESHÁWAR, KOHÁT, BANNU, DERA ISMAIL KHÁN AND DERA GHÁZI KHÁN—	
Enactments declared in force	411
III.—THE SCHEDULED DISTRICT OF LAHOUL—	
(a) Enactments declared in force	415
(b) Enactments declared not in force . . .	417

BENGAL SECRETARIAT LIBRARY

THE PUNJAB CODE.

PART I.

THE BENGAL REGULATIONS IN FORCE IN THE PUNJAB.

[a]REGULATION I OF 1798.

Passed on the 9th January, 1798.

A Regulation to prevent fraud and injustice in conditional sales of land under deeds of bai-bil-wafa or other deeds of the same nature.

Preamble.

1. It has been long a prevalent practice in the Province of Bihár to borrow money on the mortgage and conditional sale of landed property, under a stipulation that, if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute. This species of transfer has, in the above Province, been usually denominated bai-bil-wafa; and the same transaction is common in Bengal, under an instrument termed kat-kabála.

It doubtless exists also under deeds of the above or similar denominations in Orissa and Benares: and since the promulgation of the rules respecting interest contained in Regulation XV, 1793,[b] it has become more prevalent; particularly in the Province of Bihár, wherein instances have occurred in which persons lending money on bai-bil-wafa, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have denied the tender or evaded receiving payment of the money due to them within the period limited for the discharge of it.

In such cases, the proof of the tender falls on the borrower; and, if he fail in the proof of it for want of legal evidence, he is liable to lose his estate.

It is necessary therefore for the security of the borrower, in such transactions, that he should have the means of establishing before a Court of Judicature his having tendered, or being ready to pay, within the stipulated period, the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be

[a] The whole of Reg. I of 1798, except such parts as relate to interest, was declared to be in force in the Punjab by Act IV of 1872, s. 3 and Sch. I. This Regulation will be repealed when Act IV of 1882 is extended to the Punjab—see s. 2 and Sch. (c), *ib.*

[b] Regulation XV of 1793 was repealed by Act VIII of 1868, s. 1 and Sch.

readily ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it within the period agreed upon between the parties, or whether, from his having omitted to perform the conditions of such redemption, the sale is become absolute and the property included therein finally transferred to the lender.

For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor General in Council has passed the following rules, to be considered in force in the Provinces of Bengal, Bihár, Orissa and Benares, from the date of the receipt of this Regulation by the several Courts respectively.

Procedure for borrower of money on conditional sale of land who desires to redeem it by paying money lent.

2. In all instances of the loan of money on bai-bil-wafa, or on the conditional sale of landed property, as explained in the preamble to this Regulation, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon, within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment, if evaded or denied, or without any tender to the lender, to deposit the amount due to him, on or before the stipulated date, in the Díwání Adálat of the city or zila in which the land may be situated; and the Judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date, and for what purpose, such deposit may have been made.

He shall also at the same time cause a written notice of such deposit to be delivered to the lender; and on the application of the latter, and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment, to remain among the records of the Court.

That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows:—

When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum; or, if interest be payable and no rate has been stipulated, with interest at the established rate of twelve per cent.; but, if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession.

In either case, a deposit, made as above required, shall be considered to preserve to the borrower his full right of redemption; and, if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section:

Provided however that, if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due

to the lender for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not however in such cases be entitled to the recovery of his lands, until it be admitted or established that he has paid the full amount due from him.

3. In all instances wherein the lender on a bai-bil-wafa, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV, 1793,[a] as far as the same may be applicable to the nature of the case.

When lender has possessed land, and adjustment of accounts is necessary, he is to account for proceeds of estate.

But such part of section 10 of the above Regulation as directs that the mortgages therein referred to are to be considered as cancelled and redeemed whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sales referred to in this Regulation, it is hereby declared not to apply thereto.

4. A tip for the repayment of money lent on the conditional sales referred to in this Regulation shall not be considered a legal tender, unless accepted as such by the lender; the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.

Tips not to be considered legal tender unless accepted by lender.

5. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers (illegal interest excepted), the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the Courts of Civil Justice.

Regulation not to alter contract between parties.

---

[b] REGULATION X OF 1804.

Passed on the 14th December, 1804.

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-Martial.

1. WHEREAS, during wars in which the British Government has been en-

[a] Regulation XV of 1793 was repealed by Act VIII of 1868, s. 1 and Sch.

[b] The whole of Reg. X of 1804, so far as it was not modified by Act V of 1841, was declared to be in force in the Punjab by Act IV of 1872 s. 3 and Sch. I. Act V of 1841 was repealed by Act X of 1872, s. 2 and Sch. I.

gaged against certain of the Native powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified, the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William, from the date of its promulgation.

Power in time of war to suspend functions of ordinary Criminal Courts, and establish martial law,

2. The Governor General in Council is hereby declared to be empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature, within any zila, district, city or other place, within any part of the British territories subject to the Government of the Presidency of Fort William, and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct immediate trial by Courts-martial of lieges offending against Regulation.

and also to direct the immediate trial, by Courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same; or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges convicted by Court-martial of crime specified in section 2 liable to immediate punishment of death;

3. It is hereby further declared that any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a Court-martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable

to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

All persons who shall, in such cases, be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

and to forfeiture of property.

[a]4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, instead of causing such persons to be tried by Courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Government not precluded from causing persons charged to be tried by ordinary Courts.

---

[b]REGULATION XVII OF 1806.

Passed on the 11th September, 1806.

A Regulation for extending to the Province of Benares the rates of interest on future loans, and provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I, 1798, and XXXIV, 1803, for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, kat-kabála or other similar designation.

7. In addition to the provisions made in the Provinces of Bengal, Bihár, Orissa and Benares, by Regulation I, 1798, and in the Ceded and Conquered Provinces by Regulation XXXIV, 1803,[c] for the redemption of mortgages and conditional sales of land, under deeds of bai-bil-wafa, kat-kabála or any similar designation, it is hereby provided that, when the mortgagee may have obtained possession of the land on execution of the mortgage-deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property, before the mortgage is finally foreclosed in the manner provided for by the following section;

What shall entitle mortgagor or his representative to redeem before final foreclosure, after application by mortgagee for foreclosure.

---

[a] Certain words of s. 4, repealed by Act XVI of 1874, s. 1 and Sch., Part VI, have been omitted.

[b] Ss. 7 and 8 of Reg. XVII of 1806 were declared to be in force in the Punjab by Act IV of 1872, s. 3 and Sch. I. They will be repealed when Act IV of 1882 is extended to the Punjab—see s. 2 and Sch. (*c*), *ib.*

[c] Reg. XXXIV of 1803 was repealed by Act XV of 1874, s. 9 and Sch. VII, Part II.

that is to say, at any time within one year (Bengal, Faslí or Willaití, according to the era current where the mortgage may take place) from and after the application of the mortgagee to the Zila or City Court of Díwání Adálat for foreclosing the mortgage and rendering the sale conclusive, in conformity with section 8 of this Regulation :

Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative; or that the amount due be deposited, within the time above specified, in the Díwání Adálat of the zila or city in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor, in such cases, by section 2, Regulation I, 1798, and section 12, Regulation XXXIV, 1803,[a] the whole of the provisions contained in which sections, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period of one year, granted for an equitable right of redemption by this Regulation.

Procedure for mortgagee or conditional vendee desirous to foreclose mortgage or render conditional sale absolute.

8. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preamble and preceding sections of this Regulation, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower or his representative) apply for that purpose by a written petition, to be presented by himself, or by one of the authorized vakíls of the Court, to the Judge of the zila or city in which the mortgaged land or other property may be situated.

The Judge, on receiving such written application, shall cause the mortgagor or his legal representative to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him by a parwána under his seal and official signature that, if he shall not redeem the property mortgaged in the manner provided for by the foregoing section within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.

[b]REGULATION III OF 1818.

Passed on the 7th April, 1818.

A Regulation for the confinement of State-prisoners.

Preamble.

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British dominions from foreign hostility and from

[a] Reg. XXXIV of 1803 was repealed by Act XV of 1874, s. 9 and Sch. VII, Part II.

[b] The whole of Reg. III of 1818 was declared to be in force in the Punjab by Act IV of 1872, s. 3 and Sch. I.

internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State-prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family; and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others situated within the territories dependent on the Presidency of Fort William should be attached and placed under the temporary management of the Revenue-authorities without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William from the date on which they may be promulgated.

Proceeding for placing persons under restraint as State-prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

[a]*Second.*—The warrant of commitment shall be in the following form :—

To the [*here insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State-prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity

[a] As to whom the warrant may be directed, see Act XXXIV of 1850, s. 1.

to the orders of the Governor General in Council and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council,

"*A. B.*, Chief Secy. to Govt."

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State-prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.

Officers having custody of State-prisoners to submit periodical reports.

3. Every officer in whose custody any State-prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State-prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

State-prisoners in custody of Zila or City Magistrate by whom to be visited.

[a]4. *First.*—When any State-prisoner is in the custody of a Zila or City Magistrate, the Judges are to visit such State-prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State-prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State-prisoners in custody of public officer not being Zila or City Magistrate, by whom to be visited.

Second.—When any State-prisoner is placed in the custody of any public officer not being a Zila or City Magistrate, the Governor General in Council will instruct either the Zila or City Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State-prisoners to be submitted to Government.

5. The officer in whose custody any State-prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State-prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, &c., of prisoners.

6. Every officer in whose custody any State-prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State-prisoner may be placed shall take care that the allowance fixed for the support of such State-prisoner is duly appropriated to that object.

Application of provisions of ss. 3-7 to present State-prisoners.

8. (*Repealed by Act XVI of 1874, s. 1 and sch., Part VI.*)

---

[a] The words "of Circuit" in s. 4 were repealed by Act XVI of 1874, s. 1 and Sch., Part VI.

[a]9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindár, jágírdár, taluqdár or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, and to the Sadr Díwání Adálat and Nizámat Adálat.

Attachment of estates by order of Government without decision of Court.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khás management.

Management of attached estates.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Attached lands not liable to sale in execution.

Third.—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Government to arrange for satisfaction of decrees.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

Release of estate from attachment.

---

[b]REGULATION XI OF 1825.

Passed on the 26th May, 1825.

A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by Alluvion, or by Dereliction of a River or the Sea.

1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are

Preamble.

[a] Certain words of s. 9, repealed by Act XVI of 1874, s. 1 and Sch., Part. VI, have been omitted.
[b] The whole of Reg. XI of 1825 was declared to be in force in the Punjab by Act IV of 1872, s. 3 and Sch. I.

carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chárs or other lands gained in the manner above described.

The Court of Sadr Díwání Adálat, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on the subject, called for reports from their law-officers of each persuasion, and on consideration of the reports furnished by the law-officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Díwání Adálat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William.

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established.

2. Whenever any clear and definite usage of shikast paiwast, respecting the disjunction and junction of land by the encroachment or recess of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estate shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Land gained by gradual accession from recess of river or sea.

4. *First.*—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamíndár or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever.

Extent of interest in increment of person in possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by

him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II, 1819, or of any other Regulation in force.

When river by sudden change of course intersects estate.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate without destroying the identity, and preventing the recognition, of the land so removed.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Chars or islands thrown up in navigable river;

Third.—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government..

property therein when channel fordable.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession.

Sand-banks or chars thrown up in small shallow rivers.

Fourth.—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

Fifth.—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.

Encroachments on beds of navigable rivers and other obstructions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent Zila and City Magistrates, or any other officers of Government, who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

PART II.

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE PUNJAB.

---

*ACT No. XXVI OF 1854.

Received the Governor General's assent on the 11th November, 1854.

An Act for making better provision for the Education of Male Minors subject to the superintendence of the Court of Wards.

WHEREAS the existing laws are found insufficient to ensure the proper education of male minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons; It is enacted as follows:— **Preamble.**

1. The general superintendence and control of the education of every male minor, whose property has been, or shall be, brought under the management of the Court of Wards, in and for any part of the Presidency of Fort William, by virtue of any Act or Regulation which now is, or hereafter shall be, in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the zila or district wherein such minor's estate is situate; or, if such minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select. **General control of education of male minor wards vested in Collectors.**

2. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any minor is vested by this Act, to direct that such minor shall reside, either with or without his guardian, at the sadr station of the district, or at any other place within the said Presidency, and shall attend, for the purposes of education, such school or college as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college. **Power to cause male minor wards to be educated at any school or college;**

3. If it shall appear to the Collector inexpedient to place any such minor at a school or college, he shall, if the proceeds of the estate are sufficient for **or to cause wards to be educated privately.**

---

* See Act XL of 1858, s. 25, and Act IV of 1872, s. 38 *infra*, pp. 33 and 72 respectively.

that purpose, cause such minor to be educated by a private tutor, properly qualified, either at the family-residence of such minor, or at the sadr station, or elsewhere within the said Presidency; and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Expenses incurred under Act to be paid out of profits of ward's estate.

4. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act for college or school-fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Court of Wards.

Court of Wards may remove guardians for disobedience to Collector's orders.

5. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with, any orders passed, or directions given, by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards;

and if, in any such case, the guardian to be removed shall be also the manager of the minor's estate, it shall be lawful for the Court of Wards, at its discretion, either to remove him from both the said offices, or to continue him in that of manager only.

Continued liability of guardian removed:

6. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship:

powers and responsibilities of new guardian.

and every guardian appointed in the place of a guardian so removed shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of minors by a Collector of Revenue acting under the Court of Wards.

Right to custody of person of male minor vested in guardian appointed by Court of Wards, or in Collector.

7. The right to the custody of the person of any male minor whose property is under the management of the Court of Wards is hereby vested in the person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such minor, or, in the absence of any such person, in the Collector of Revenue having the superintendence of the education of such minor under the provisions of this Act.

Appeal from orders of Collector to lie to Commissioner acting as Court of Wards.

8. All orders and proceedings of a Collector under the provisions of this Act shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Commissioner of Revenue acting as a Court of Wards in and for the division to which such Collector belongs.

[a]ACT No. XX OF 1856.

Received the Governor General's assent on the 14th November, 1856.

An Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the appointment and maintenance of police chaukídárs in cities, towns, stations, suburbs and bázárs in the Presidency of Fort William in Bengal; It is enacted as follows:— Preamble.

[b]1. The monthly assessment levied under Regulation XXII, 1816,[c] and Act XV of 1837[c] in any city or station at the time of the passing of this Act shall continue to be levied until the same shall be revised and altered under the provisions of this Act. Existing assessment to continue until altered by this Act.

[d]2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bázárs in the said Presidency to which the Local Government may, at any time, extend the same by notification in the official Gazette: To what places Act shall apply.

Provided always that this Act shall not be extended to any agricultural village. Proviso.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station or bázár, or any part or parts of a city, town, suburb, station or bázár, with any other city, town, suburb, station or bázár, or part or parts of a city, town, suburb, station or bázár; and in such case all the provisions of this Act applicable to a city, town, suburb, station or bázár shall apply to such union. Unions may be formed.

4. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, bázár or union, and all occupiers of houses within any such city, town, suburb, station, bázár or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukídárs appointed to be maintained in such city, town, station, suburb, bázár or union. Government may define limits of cities, towns, &c.

5. If any house be let out in portions to different persons, or be let out to Houses, let to lodgers, how assessed.

---

[a] See Act XXII of 1871, *infra*, p. 55, which is to be read with and taken as part of this Act—*vide* s. 6, *ib.* Under Act XXII of 1864, s. 14, the Local Government has extended the provisions of Act XX of 1856 to the Cantonments of Multán, Ráwalpindi, Sialkot, Kasauli, Dagshai, Sabáthu, Jhelam, Jalandhar, Meean Meer and Pesháwar, under Act III of 1880, s. 12, to the Cantonments of Jatogh, Ferozepore and Amritsar, and under s. 2 above to the town of Kalka.

The Local Government may direct that the Act shall cease to be in force in any local area over which a district board has authority under Act XX of 1883, see s. 69, *ib.*, *infra*, p. 185.

[b] Part of s. 1, repealed by Act XIV of 1870, s. 1 and Sch., Part II, has been omitted.

[c] Reg. XXII of 1816 and Act XV of 1837 were repealed by the part of s. 1 of this Act which has been omitted.

[d] S. 2 substituted by Act XXII of 1871, s. 1.

or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Penalty for removing, &c., name of street or number of house.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mahalla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Magistrate to determine number of chaukídárs. Proviso.

7. The Magistrate shall determine the number of chaukídárs to be maintained in any city, town or other such place as aforesaid; but the number of chaukídárs so to be maintained shall not exceed one to every twenty-five houses.

Grades and wages of chaukídárs.

8. The chaukídárs appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine sum to be raised annually.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town or other such place as aforesaid, for the purpose of maintaining the chaukídárs appointed to be maintained therein, and for the purposes specified in sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of tax to be levied.

10. The tax to be levied in any city, town or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof.

The Local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

[a]11. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukídár of the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

Rate how to be ascertained.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year.

Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Magistrate may exempt

13. The Magistrate may, at his discretion, exempt from the assessment or

[a] S. 11 substituted by Act XXII of 1871, s. 2.

rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same. occupiers unable to pay.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchâyat for each such city, town or other place as aforesaid, or, when he may see fit to divide any such city, town or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business or other description of the persons appointed, and the period for which the appointment is made. Constitution of panchâyats.

Every panchâyat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town or other place, or in or near to any such division thereof:

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit to be a member of the panchâyat, notwithstanding such person may not reside or carry on business in or near to such city, town or other place, or in or near to any such division thereof. Magistrate may appoint non-resident person to be a member.

15. The panchâyat so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town or other place as aforesaid, or any division thereof) for which the panchâyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business or other description of such occupier, the property occupied and the amount payable monthly by such occupier. Duties of panchâyat.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

The requisition of the Magistrate to the panchâyat to make out such list shall be in the form marked A or B, as the case may be, set forth in the appendix to this Act annexed, or to the like effect. Magistrate's requisition.

16. The panchâyat shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force. Panchâyat may revise existing assessment or rate.

17. When an assessment or rate shall have been made or revised, as the case may be, the panchâyat shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it. Magistrate may amend and settle assessment or rate as revised.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the appendix to this Act, or to the like effect, and written in the language of the Province in which the city, town or place is situate, to be stuck up in some conspicuous place in the Assessment or rate to be published.

district for which the assessment or rate has been made; and another copy, together with a like notification, at the nearest police-thana; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to stand good for one year.

Effect of change of occupation before new assessment or rate.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Revised assessment or rate deemed new.

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate:

Continuance of assessment of past year.

Provided always that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be republished according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment or rate.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

Award of costs.

In case the Magistrate confirm the assessment or rate, he may award costs against the appellant.

Decision on appeal. Bar of jurisdiction.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court:

Limitation of appeal.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Commissioner may direct revision of assessment or rate.

21. The Commissioner of Circuit, with the consent of the Local Government, may at any time direct the Magistrate to revise the assessment or rate of any city, town or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Magistrate may direct revision at any

22. The Magistrate may require the panchayat to revise the assessment or rate at any period during the year; but on every such occasion he shall

address a written order to the pancháyat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period. time of year for reasons stated.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed. Publication of assessment or rate as revised.

And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20. Objections.

24. If any person appointed a member of a pancháyat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees. Penalty for refusal to serve on pancháyat.

25. If the persons appointed a pancháyat, or a majority of them, refuse or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the pancháyat: If pancháyat refuse or omit to act, Magistrate may assume their functions.

Provided that the functions of the pancháyat shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section. Proviso.

26. No person shall be bound to act on a pancháyat unless he shall reside or carry on business within the limits of the district for which the pancháyat is to be appointed. Residents only bound to act on pancháyat.

27. Every pancháyat shall be appointed for the period of one year, and no person shall be compelled to serve on a pancháyat for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this section shall prevent any person from being appointed to serve on a pancháyat at any time whatsoever with his own consent. Duration of pancháyat and limitation of service thereon.

28. If a majority of the persons assessed or rated in any district for which a pancháyat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the pancháyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the pancháyat. Member of pancháyat removable only on application of ratepayers.

29. If any vacancy shall occur among the members of a pancháyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act. Vacancies in pancháyat how supplied.

30. The pancháyat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukídár within the district for which they are Pancháyat to report misconduct of

chaukídárs, or death or absence.

appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukídár or from any other cause.

Appointment and duty of sadr pancháyat.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr pancháyat consisting of not less than five members, who may be selected either from the members of the local pancháyats or from any other residents of the city or town.

It shall be the duty of the sadr pancháyat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district pancháyats and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of chaukídárs.

32. The chaukídárs to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence and previous occupation of every person so appointed, with the date of his appointment.

Appointment of jamadárs and inspectors.

33. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint such number of jamadárs and inspectors as may be necessary for the supervision and control of the chaukídárs:

Their number.

Provided that the number of these officers shall not be greater than one jamadár to fifteen chaukídárs, and one inspector to sixty chaukídárs.

Appointment of tax-collectors and other establishment.

34. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint one or more tax-collectors or dároghas, and such other servants as may be necessary for preparing or assisting the pancháyat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records and otherwise carrying out the purposes of this Act.

Security.

The Magistrate shall take from every tax-collector or dárogha such security for the due disposal of the sums collected by him as may be thought necessary.

Contingent expenses.

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses and weapons for the chaukídárs, and for any other contingencies that may seem to him necessary.

Surplus-funds may be devoted to conservancy purposes.

36. After paying the wages of the chaukídárs, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner of Circuit, appropriate any sum which may be available to the purpose of cleansing the city, town or place, or of lighting or otherwise improving the same.

Register of assessments.

37. The tax-dároghas shall prepare from the lists hereinbefore mentioned a register, which shall be attested by the Magistrate or his deputy or assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

Collection of assessment.

[a] 38. On such dates as may be fixed by the pancháyats for payment of

[a] S. 38 substituted by Act XXII of 1871, s. 3.

instalments of the tax, the tax-dárogha shall proceed in person, or through some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected the dárogha shall grant a receipt:

Provided that, with the sanction of the Commissioners of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case the amount due for each quarter shall be collected in the last month of that quarter.

Remittance of collections.

39. The tax-dárogha shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the dárogha a receipt for every sum of money so remitted.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the chaukídárí fund of the city, town or place in or on account of which they are collected.

Preparation of summons, &c.

40. The tax-dárogha shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

Report of defaulters to Magistrate.

41. [a]On the tenth day after the date fixed for the payment of instalments of the tax,[a] or as soon after as possible, the tax-dárogha shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summoning defaulters.

42. On receipt of the aforesaid list the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the kachahrí of the Magistrate within a reasonable time, to be specified in the summons, to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

43. If any defaulter fail to appear in answer to the summons, or, having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-dárogha, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how conducted.

44. The tax-dárogha shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated.

Proceeds how applied.

If the arrear be not paid with costs, or the warrant be not in the meantime

---

[a-a] Part of s. 41 substituted by Act XXII of 1871, s. 4.

discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Returns of sale.

Costs.

The tax-dárogha shall make a return of all such sales to the Magistrate in the form specified in appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in appendix E annexed to this Act.

Penalty for tax-dárogha purchasing at such sales.

45. Any tax-dárogha or other servant appointed under this Act, and any chaukídár or officer of police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated.

Sale of property beyond limits of town, &c.

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the názir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

Goods liable to distress.

47. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear.

Owner of goods to be indemnified by defaulter.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same:

Limit to distress.

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

Penalty for obstructing tax-dárogha in execution of duty.

48. Every person who shall wilfully obstruct or molest any tax-dárogha or any of his establishment in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

Magistrates to try complaints against tax-dárogha for extortion, &c.

49. The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any tax-dárogha or other person appointed under this Act for extortion, malversation or other misconduct in the discharge of his duty.

GAL SECRETARIAT LIBRARY

On proof of any such offence the tax-dárogha or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or, in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months. Penalty for extortion, &c.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-dárogha or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law. Saving of power to commit.

50. The chaukídárs and the jamadárs and inspectors appointed under this Act shall exercise all the powers, and perform all the duties, and be subject to all the liabilities, of police-officers as prescribed in the general Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties and liabilities are not inconsistent with, or otherwise expressly provided for by, this Act. Powers, duties, and liabilities of chaukídárs, jamadárs and inspectors.

The chaukídárs and the jamadárs and inspectors are in all respects subordinate to the Police-dárogha of the thána within the limits of which they may be employed.

51. Every chaukídár appointed under this Act shall wear a badge with a number, and the name of the city, town, place or division for which he is appointed, engraved thereon. Chaukídárs to wear badges.

52. Every chaukídár and every jamadár and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised : Power of chaukídárs— to arrest without warrant:

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets : to prevent nuisances :

Third.—He shall give immediate intelligence to the police-dárogha of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace : to give intelligence of resort of thieves, &c. :

Fourth.—He may stop, examine, and if necessary detain, any person who shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest police-station. to examine and detain suspected persons.

53. If a chaukídár or other police-officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Assistance to chaukídárs in making arrests.

Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chaukídárs, &c., how paid.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukídárs and the jamadárs and inspectors (if any) shall be mustered at the thána to which they are attached, and the police-dárogha or muharrir of the thána shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukídár in an official register of receipts prepared for the purpose; and the dárogha, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Punishment of officers for neglect of duty, &c.

55. Any chaukídár and any jamadár or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Suspension or dismissal of police-officers.

56. The Magistrate may suspend or dismiss any officer appointed under this Act whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Fines how disposed of.

57. All fines levied under this Act shall be credited to the chaukídárí fund and held available for the purposes of this Act.

Jurisdiction.

58. [*Rep. by Act X of 1872, s. 2 and Sch. I, Part II.*]

Control over proceedings of Magistrate and Commis-

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commissioner of Circuit shall be subject to the control of the Local Government.

Act not to apply to Calcutta.

60. Nothing contained in this Act shall extend to the town of Calcutta.

Interpretation-clause.

61. Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation,—

the word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate:

the word "house" shall include any shop or warehouse:

the word "bázár" shall mean any place of trade where there is a collection of shops or warehouses:

the word "district" shall mean a city, town, bázár or union, or any division thereof:

the expression "police-dárogha" shall include any tahsíldár or náib-tahsíldár entrusted with police-jurisdiction.

APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the panchayat.*]

(*Appendix A.*)

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable assessment upon the several occupiers of houses, shops and buildings in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukídár of the lowest grade*).[a]

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect :—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

[a] The residue of this para. was repealed by Act XXII of 1871, s. 5.

APPENDIX B.

To

[*Here insert the names, places of abode, business or other description of the panchayat.*]

I do hereby require you, the panchayat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equal rate upon the several occupiers of houses, shops and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukídárs for the year commencing on , and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent. of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.

An assessment (*or* rate, *as the case may be*), made for (*here describe the city, town, village or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukídárs for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (*or* quarterly) assessment (*or* rate).

Whereas the above assessment (*or* rate, *as the case may be*), has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of . , the several persons whose names are included in the said assessment (*or* rate) are hereby required to pay the monthly (*or* quarterly) contributions set opposite to their names with regularity to the tax-dároghá or other person appointed by the Magistrate to receive the same[a] (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or, in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or* rated) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated, this . day of

Magistrate of

[a] Certain words, repealed by Act XXII of 1871, s. 5, have been omitted.

APPENDIX D.

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

APPENDIX E.

Table of Fees payable in Distraints under this Act.

Sum distrained for.	Fee.	
	Rs.	As.
Under 1 rupee	0	4
1 and under 3 rupees	0	8
3 „ 5 „	1	0
5 „ 10 „	1	8
10 „ 15 „	2	0
15 „ 20 „	2	8
20 „ 25 „	3	0
25 „ 30 „	3	8
30 „ 35 „	4	0
35 „ 40 „	4	8
40 „ 45 „	5	0
45 „ 50 „	5	8
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

[a]ACT No. XL of 1858.

Received the Governor General's assent on the 11th December, 1858.

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the care of the persons and property of minors not brought under the superintendence of the Court of Wards; It is enacted as follows:— **Preamble.**

1. [*Rep. by Act XIV of 1870, s. 1 and Sch., Part II.*] **Regulations repealed.**

2. Except in the case of proprietors of estates paying revenue to Government, who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all minors (not being European British subjects)[b] and the charge of their property shall be subject to the jurisdiction of the Civil Court. **Care of persons and property of minors not under Court of Wards.**

3. Every person who shall claim a right to have charge of property in trust for a minor under a will or deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a certificate of administration; **Who may apply for certificate of administration.**

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such certificate: **No person to institute or defend suit without certificate.**

Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative. **Power to allow relative of minor to act.**

4. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the Civil Court to appoint a fit person to take charge of the property and person of such minor. **Who may apply to Court to appoint person to take charge of minor's property, &c.**

5. If the property be situate in more than one district, any such application as aforesaid shall be made to the Civil Court of the district in which the minor has his residence. **Application where property in more than one district.**

6. When application shall have been made to the Civil Court either by a person claiming a right to have charge of the property of a minor, or by any **Procedure of Court on application.**

[a] The whole of Act XL of 1858 was declared to be in force in the Punjab by Act IV of 1872, s. 3 and Sch. I.

For power to transfer to a Subordinate Judge or Munsif proceedings under Act XL of 1858 pending before District Court, see Act XVIII of 1884, s. 29 (*1*) (*b*).

[b] As to European British minors, see Act XIII of 1874, *infra*, p. 103.

relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same.

On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case:

Reference of enquiry to subordinate Court.

Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Certificate of administration to whom to be granted.

7. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

Appointment of guardian by Court.

The Court may also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid or such relative, or any other relative or friend of the minor, to be guardian of the person of the minor.

Court may call for report as to relative or friend.

8. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor who may be desirous or willing to be entrusted with the charge of his property or person.

Proceeding if no title to certificate be established, and if there be no relative fit to be entrusted with property.

9. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the minor, and the Court shall think it to be necessary for the interest of his minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

When Court may grant certificate to Public Curator or other person.

10. If the estate of the minor consist of moveable property or of houses, gardens or the like, the Court may grant a certificate to the Public Curator appointed under section 19, Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in certain cases*), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

Appointment of guardian.

11. Whenever the Court shall grant a certificate of administration to the estate of a minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, may be appointed guardian.

Guardian's allowance.

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable.

The Court may also fix such allowance as it may think proper for the maintenance of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid.

Minor's allowance.

12. If the estate of the minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a manager of the property of the minor and a guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the manager and guardian respectively, so far as the same may be applicable, as if the property and person of the minor were subject to the jurisdiction of the Court of Wards.

When Court may direct Collector to take charge of estate; appointment of manager and guardian thereupon.

13. In all enquiries held by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the minor or otherwise, as it may think proper.

Costs of enquiries.

14. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the district in which the estate is situate may represent the fact to the Civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property, of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court.

When Civil Court may direct Collector to retain charge of shares and persons of certain minors.

The Collector shall in such case appoint a guardian for the care of the persons, and a manager for the charge of the property, of the disqualified proprietors, in the manner prescribed in section 12.

If the property be situate in more than one district, the representation shall be made by the Collector who had the general management of the property under the Court of Wards to the Civil Court of his own district, and the orders of the Court of that district shall have effect also in other districts in which portions of the property may be situate.

Provision for case of estates situated in more than one district.

15. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior revenue-authorities.

Control of proceedings of Collector.

16. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall, within six months from the date of the certificate, deliver in Court an inventory of any immoveable property belonging to the minor, and of all such sums of money, goods, effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same.

Public Curator, &c., to furnish inventory,

and annual accounts.

And the Public Curator and every such other administrator shall furnish annually, within three months from the close of the year of the era current in the district, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand.

Proceeding if accuracy of inventory or account be impugned.

If any relative or friend of a minor or any public officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the curator or administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Payment of surplus into treasury.

Investment.

17. All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall be paid into the public treasury on account of the estate, and may be invested from time to time in the public securities.

Powers of person to whom certificate granted, in management of minor's estate.

18. Every person to whom a certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts and liabilities due to or by the estate of the minor.

But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

Relative or friend may sue for account.

19. It shall be lawful for any relative or friend of a minor, at any time during the continuance of the minority, to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit after disqualification ceases.

20. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of certificate.

21. The Civil Court for any sufficient cause may recall any certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a certificate to the Public Curator or any other person, as the case may be; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him.

Removal of guardian.

The Court may also for any sufficient cause remove any guardian appointed by the Court.

22. The Civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Penalty for neglect or refusal to deliver accounts or property.

23. The Civil Court may permit any person to whom a certificate shall have been granted under this Act, not being the Public Curator, and any guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Civil Court may permit resignation of trust, &c.

24. The Public Curator, and every other administrator to whom a certificate shall have been granted under section 10, shall be entitled to receive such commission not exceeding five *per centum* on the sums received and disbursed by him, or such other allowance, to be paid out of the minor's estate, as the Civil Court shall think fit.

Remuneration of Public Curator, &c.

25. Every guardian appointed by the Civil Court, or by the Collector, under this Act, who shall have charge of any male minor, shall be bound to provide for his education in a suitable manner.

Guardians of minors to provide for their education.

The general superintendence and control of the education of all such minors shall be vested in the Civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854[a] (*for making better provision for the education of male minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the Civil Court, or to the Collector, as the case may be, in respect to such minors, and to every such guardian.

Act XXVI of 1854 declared applicable.

26. For the purposes of this Act, every person shall be held to be a minor who has not attained the age of eighteen years.

Persons under 18 years to be minors.

27. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of a guardian of the person of any minor whose father is living and is not a minor; and nothing in this Act shall authorize the appointment of any person other than a female as the guardian of the person of a female.

Act not to authorize appointment of guardians of certain married women and other persons.

If a guardian of the person of a minor be appointed during the minority of the father or husband of the minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Guardianship in certain cases when to cease.

28. All orders passed by the Civil Court or by any subordinate Court under this Act shall be open to appeal under the rules in force for appeals in miscellaneous cases from the orders of such Court and the subordinate Courts.

Appeals.

29. The expression "Civil Court" as used in this Act shall be held to mean

Construction

[a] For Act XXVI of 1854, see *supra*, p. 13.

of "Civil Court." Powers of Supreme Court not affected.

the principal Court of original jurisdiction in the district, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any minor subject to its jurisdiction.

Number. Gender.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

ACT No. III OF 1867.

Received the Governor General's assent on the 25th January, 1867.

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, of the Lieutenant-Governor of the Punjab, and to the Administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces, and of the Chief Commissioner of British Burma; It is hereby enacted as follows:—

Interpretation-clause. "Lieutenant-Governor." "Chief Commissioner." "Common gaming-house."

1. In this Act—

"Lieutenant-Governor" means the Lieutenant-Governor of the said North-Western Provinces or the Punjab, as the case may be:

"Chief Commissioner" means the Chief Commissioner of Oudh, the Central Provinces or British Burma, as the case may be:

"Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

"Number." "Gender."

Words in the singular include the plural and *vice versâ*; and

Words denoting the masculine gender include females.

Power to extend Act.

2. Sections 13, 17 and 18[a] of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official

---

[a] S. 18 has been repealed—see *infra*, p. 38.

Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

Penalty for owning or keeping, or having charge of, gaming-house.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

XLV of 1860.

Penalty for being found in gaming-house.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter or authorize Police to enter and search.

5. If the Magistrate of a district, or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of police, not below such rank as the Lieutenant-Governor or Chief Commissioner

---

* Under s. 2, the remaining sections of this Act have been extended to a large number of places in the Punjab.

shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize, or authorize such officer to seize, all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search, or authorize such officer to search, all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize, or authorize such officer to seize, and take possession of all instruments of gaming found upon such search.

Instruments of gaming in suspected houses to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all monies seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Proof of playing for stakes unnecessary.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place, or any part thereof, of any Magistrate or officer authorized as aforesaid.

Magistrate may require any person apprehended to be sworn and give evidence.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly, or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.

XLV of 1860.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Witnesses indemnified.

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

Act not to apply to games of skill.

13. A police-officer may apprehend without warrant—

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

Persons whom police-officer may apprehend without warrant,

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

to be brought before a Magistrate.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

Destruction of instruments of gaming found in public streets.

and such police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure,[a] 1882, as to the amount of fine or imprisonment he may inflict. X of 1882.

Penalty for subsequent offence.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Proviso.

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines.

17. All fines imposed under this Act may be recovered in the manner prescribed by sections 386, 387 and 389 of the Code of Criminal Procedure,[b] 1882, and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct. X of 1882.

Offence under Act to be offences within meaning of Penal Code.

18. [*Rep. by Act XVI of 1874, s. 1 and Sch., Pt. I.*]

ACT No. XXIII OF 1867.

Received the Governor General's assent on the 18th March, 1867.

An Act for the suppression of murderous outrages in certain Districts of the Punjab.

Preamble.

WHEREAS in certain districts of the Punjab fanatics have frequently mur-

---

[a] See Act X of 1882, s. 3.

[b] See Act X of 1882, s. 3. The sections referred to in the text have been substituted for s. 307 of Act X of 1872.

dered or attempted to murder servants of the Queen and other persons: and whereas the general law of the country is not adequate to suppress such offences; It is hereby enacted as follows:—

Power to extend Act to any part of the Punjab.

1. It shall be lawful for the Lieutenant-Governor of the Punjab, with the previous consent of the Governor General of India in Council, by a proclamation published in the official Gazette, from time to time to declare any part or parts of the territories under his government to be subject to the operation of all or any of the provisions of this Act,[a] and also, by such proclamation and with such consent as aforesaid, from time to time to withdraw from the operation of such provisions any part or parts of the said territories which he may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of the same provisions or of any of them.

Punishment of fanatics murdering or attempting to murder.

2. Any fanatic who shall murder or who shall, within the meaning of the Indian Penal Code, section 307, attempt to murder any servant of the Queen or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government.

XLV of 1860.

Offences under the Act to be offences within meaning of Penal Code.

3. [*Rep. by Act XVI of 1874, s. 1 and Sch., Pt. I.*]

Forfeiture of property of fanatics killed in committing outrages punishable under Act.

4. Whenever any fanatic shall be killed in the act of committing any such offence as aforesaid, or, being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the[b] Sessions Judge or Commissioner who, under the provisions hereinafter contained, would have had cognizance of the offence if the offender could have been brought to trial, to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government and to dispose of his body as such Sessions Judge or Commissioner shall think fit.

Trial before Sessions Judge or Commissioner.

5. Subject to the provision contained in section 14 of this Act, any offence triable under this Act shall be tried by the[b] Sessions Judge or Commissioner of the division in which it has been committed; and, in respect of all such offences, the Sessions Judge or Commissioner shall follow the procedure prescribed for a

---

[a] Under s. 1 the districts of Peshâwar, Kohat, Hazára, Dera Ghâzi Khân, Dera Ismâil Khân and Bannu have been declared subject to the provisions of this Act—see Notification No. 1063, Punjab Gazette, 25th July, 1878, Pt. I, p. 289.

[b] For the word "Commissioner" wherever it occurred, the words "Sessions Judge or Commissioner" have been substituted—see Act IX of 1877, s. 2.

Magistrate by section 149, Chapter XVII, and the provisions applicable to warrant-cases of the Code of Criminal Procedure:[a] X of 1872.

Provided that, if he shall be of opinion that any witness or evidence is offered for the purpose of vexation or delay, or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material, and, if the Sessions Judge or Commissioner be not so satisfied, he shall not be bound to summon the witness or examine the evidence so offered.

Trial to be with aid of assessors.

6. Trials under this Act before the Sessions Judge or Commissioner shall be conducted with the aid of two or more assessors as members of the Court.

The Sessions Judge or Commissioner may appoint such persons (other than persons specified in section 405[b] of the Code of Criminal Procedure) at such time and in such manner as he may think fit to serve as assessors, and no persons shall be exempt, within the meaning of section 406[b] of the same Code, from serving as such assessors.

The provisions of the Code of Criminal Procedure shall, save as aforesaid, apply to assessors appointed under this section.

What the judgment is to specify.

7. When any trial under this Act is concluded, if the accused person be convicted, it shall be sufficient if the Court, in passing judgment and in recording the finding and sentence, shall specify the offence of which he is convicted, and the Court shall immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined to cause the sentence to be carried into execution, and such sentence shall be carried into execution accordingly.

No sentence of death passed under this Act shall require confirmation by any Court.

Disposal of bodies of criminals.

8. When any person shall be sentenced to death under this Act, his body shall be disposed of as the Sessions Judge or Commissioner by whom he was so sentenced shall direct.

Proceedings to be reported to Lieutenant-Governor.

9. The proceedings in every trial held under this Act shall be reported to the Lieutenant-Governor, without unnecessary delay, by the officer before whom such trial shall have been held.

No appeal from orders or sentences under Act.

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1882,[d] or "The Punjab Chief Court Act, 1866,"[c] no appeal shall lie from any order or sentence under this Act. X of 1882. IV of 1866.

Procedure in cases not contemplated by Act.

11. If any Sessions Judge or Commissioner in whom jurisdiction is vested by this Act shall be of opinion that the accused person has committed an offence punishable under the Indian Penal Code, but that such offence is not contemplated by the preamble to this Act, the offender shall be dealt with in manner provided in such case by the Code of Criminal Procedure, 1882.[d] XLV of 1860. X of 1882.

[a] Now Act X of 1882, see s. 3, *ib.* For corresponding provisions of the Code of 1882 compare s. 204, Chap: XXI, and the provisions applicable to warrant-cases.

[b] Now Act X of 1882, see s. 3, *ib.* For corresponding provisions of the Code of 1882 compare ss. 278 and 320.

[c] Act IV of 1866 was repealed by Act XVII of 1877, s. 2 and Sch.

[d] See Act X of 1882, s 3.

12. The said Lieutenant-Governor shall have, with respect to the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the Governor General of India by any law regarding the confinement of persons charged with or suspected of State-offences;[a] and the provisions of any such law shall, *mutatis mutandis*, be applicable to all cases in which the Lieutenant-Governor shall proceed under the authority of this section.

Lieutenant-Governor's powers as to confinement of persons under Act.

13. Any person having the full powers of a Magistrate may cause any person, against whom there are in his judgment grounds of proceeding under the last preceding section, to be apprehended, and, after such enquiry as he may think necessary, may detain such person in safe custody until he shall have received the orders of the said Lieutenant-Governor, to whom, in all such cases, he shall report his proceedings without unnecessary delay.

Power of Magistrate as to persons suspected.

14. The jurisdiction conferred by this Act on a Sessions Judge or Commissioner may be exercised, in the case of any offence punishable under this Act, by any person having the full powers of a Magistrate whom the Sessions Judge or Commissioner to whom he may be subordinate, or the said Lieutenant-Governor, shall, after the commission of such offence, specially invest with such jurisdiction.

Exercise of jurisdiction conferred by Act.

15. It shall be lawful for the said Lieutenant-Governor, either on his own motion or at the request of the Chief Court of the Punjab, from time to time to withdraw any class of cases from the operation of this Act.

Power to withdraw cases from operation of Act.

16. With the previous consent of the said Lieutenant-Governor, but not otherwise, the said Chief Court may, from time to time, make and issue circular orders for the guidance of officers in cases under this Act: provided that such orders are consistent with the provisions herein contained.

Power of Chief Court to issue circular orders.

All such orders shall be published in the official Gazette, and shall be obeyed by the officers aforesaid.

Publication of such orders.

17. This Act shall expire in ten years from the date of passing it, or at such earlier date as the Governor General of India in Council may order.[b]

Expiration of Act.

THE PRISONS ACT, 1870.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title. Local extent.

---

[a] See Reg. III of 1818, *infra*, p. 6.
[b] Revived and continued by Act IX of 1877, s. 1—see *infra*, p. 113

SECTIONS.

2. [*Repealed by Act XII of 1873, s. 1 and Sch., Pt. II.*]
3. Interpretation-clause.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

4. Local Government to provide prison-accommodation.
5. Temporary shelter of prisoners.
6. Inspector General of Prisons.
7. Officers of prison.
8. Appointment of officers.
9. Salaries, suspension and dismissal of officers.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

10. Officers to obey superintendent.
11. Officers not to sell or let to prisoners.
12. Officers not to contract with prisoners, nor to benefit by sales.

Superintendent.

13. Duties of superintendent.

Medical Officer.

14. Power to make rules as to medical officer's duties; Medical officer to obey such rules;
15. to report special cases;
16. to make entries as to death of prisoners;
17. Deputy medical officer; Subordinate medical officer.

Gaoler.

18. Residence of gaoler.
19. Gaoler to deliver list of prisoners in punishment-cells;
20. to give notice of death of prisoners;
21. to keep enumerated books and accounts;
22. responsible for safe custody of documents;
23. not to be absent without leave;
24. Deputy gaoler.

Subordinate Officers.

25. Powers of gate-porter.
26. Subordinate officers not to be absent without leave.

CHAPTER IV.

Admission, Removal and Discharge of Prisoners.

Sections.

27. Prisoners to be searched on entrance; medical examination of criminal prisoners.
28. Effects of criminal prisoners retained.
29. Medical examination before removal and discharge of prisoners.

CHAPTER V.

Discipline of Prisoners.

30. Requisitions of Act as to separation of prisoners.
31. Rules as to separate confinement.
32. Cells to be furnished with means of communication.
33. Prisoners under sentence of death.

CHAPTER VI.

Food, Clothing and Bedding of Prisoners.

34. Civil prisoner may maintain himself.
35. Civil prisoner not to sell provisions.
36. Allowance of clothing and bedding; judgment-creditor to defray such allowance.

CHAPTER VII.

Employment of Prisoners.

37. Work and earnings of civil prisoners.
38. Examination by medical officer of labouring prisoners.
39. Employment of prisoners sentenced to simple imprisonment.

CHAPTER VIII.

Health of Prisoners.

40. Names of sick prisoners to be reported to gaoler; gaoler to report them to medical officer.
41. Entry of directions by medical officer.
42. Infirmaries.

CHAPTER IX.

Visits to and Correspondence of Prisoners.

43. Visits to prisoners; correspondence of prisoners.
44. Power of gaoler as to visitors.

CHAPTER X.

Offences in Relation to Prisons.

Sections.

45. Carrying liquor, tobacco or drugs into prison; suffering same to be sold or used in prison; carrying letters into and out of prison; abetment of such offences.
46. Notice of penalties to be placed outside prison.

CHAPTER XI.

Prison-offences.

47. List of prison-offences.
48. Superintendent's power to punish prison-offenders.
49. Punishment of prisoners by Magistrate.
50. Corporal punishment.
51. Penalty on officers ill-treating prisoners or violating rules.

CHAPTER XII.

Miscellaneous.

52. Confinement in irons of prisoners sentenced to rigorous imprisonment.
53. Confinement in irons by gaoler of his own authority.
54. Power to make supplementary prison-rules.
55. Present rules.
56. Exercise of powers of superintendent.
SCHEDULE.—[*Rep. by Act XII of 1873, s. 1 and Sch., Pt. II.*]

[a]ACT No. XXVI of 1870.

Received the Governor General's assent on the 3rd October, 1870.

An Act to amend the law relating to prisons.

Preamble.

Whereas it is expedient to amend the law relating to prisons in the North-Western Provinces, the Punjab, Oudh, the Central Provinces and British Burma, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short title.

1. This Act may be called "The Prisons Act, 1870."

Local extent.

It extends only to the territories respectively under the government of the

[a] Compare with this "The Prison Act, 1865," 28 & 29 Vic., cap. 126.

Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burma.

[*Para. 3 rep. by Act XVI of 1874, s. 1 and Sch., Pt. I.*]

Commencement.

2. [*Rep. by Act XII of 1873, s. 1 and Sch., Pt. II.*]

Repeal of enactments.

3. In this Act—

Interpretation-clause.

"prison" means any gaol or penitentiary, and includes the airing-grounds or other grounds or buildings occupied for the use of the prison;

"Prison."

"criminal prisoner" means any prisoner charged with or convicted of a crime; and

"Criminal prisoner."

"civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail.

"Civil prisoner."

CHAPTER II.

Maintenance and Officers of Prisons.

4. The Local Government shall provide, for the prisoners in the territories under such Government, accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Local Government to provide prison-accommodation.

5. Whenever it appears to the Local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein,

Temporary shelter of prisoners.

or whenever, from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the Local Government from time to time directs for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the pris on

6. An Inspector General of Prisons shall be appointed in the North-Western Provinces by the Local Government, in the Punjab by the Local Government, and in Oudh, the Central Provinces and British Burma by the Governor General in Council.

Inspector General of Prisons.

In each Inspector General so appointed shall be vested (subject to the orders of the Local Government) the general control and superintendence of all prisons situate in the territories under such Government.

7. For every prison there shall be a superintendent, a medical officer (who may also be the superintendent), a gaoler and such subordinate officers as the Local Government thinks necessary.

Officers of prison.

Subject to the orders of the Governor General in Council, the Local Government may direct that for any specified prison there shall also be a deputy medical officer and a deputy gaoler.

Appointment of officers.

8. The Local Government shall appoint the superintendent and the medical officer and the deputy medical officer.

The superintendent (subject to the approval of the Inspector General of Prisons) shall appoint the gaoler and deputy gaoler.

The superintendent shall also appoint the subordinate officers.

Salaries, suspension and dismissal of officers.

9. Every officer appointed under this Act shall receive such salary as (subject to the approval of the Governor General of India in Council) the Local Government directs, and may be suspended or dismissed by the authority appointing him:

Provided that no gaoler or deputy gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this section may appeal to the Inspector General, whose orders on such appeal shall be final.

CHAPTER III.

Duties of Officers.

Generally.

Officers to obey superintendent.

10. All officers of a prison shall obey the directions of the superintendent: all subordinate officers shall perform such duties as may be directed by the gaoler with the sanction of the superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him.

Officers not to sell or let to prisoners.

11. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract with prisoners, nor to benefit by sales.

12. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under section 54, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Duties of superintendent.

13. Subject to the orders of the Inspector General of Prisons, the superintendent shall—

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control:

correspond on all matters connected with the prison with and through the Inspector General:

submit to the Inspector General all bills of prison-expenditure with proper vouchers for audit:

report to the Inspector General from time to time, as they occur, all escapes and re-captures, and all outbreaks of epidemic disease:

send to the Inspector General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General;

and, generally, obey all rules made under section 54 for the guidance of the superintendent.

The superintendent shall also obey all orders respecting the prison given by the Magistrate of the district, or the Deputy Commissioner, as the case may be, and shall report to the Inspector General all such orders and the action taken thereon.

Medical Officer.

Power to make rules as to medical officer's duties.

14. The Local Government shall make rules as to each of the following matters:—

how often the medical officer shall visit the prison and see each prisoner:

the records to be made respecting sick prisoners:

periodical inspection of every part of the prison:

reports on its cleanliness, drainage, warmth and ventilation:

reports on the provisions, water, clothing and bedding supplied to the prisoners.

The medical officer shall obey such rules.

Medical officer to report special cases;

15. Whenever the medical officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the medical officer shall report the case in writing to the superintendent, together with such directions as the medical officer thinks proper.

to make entries as to death of prisoners.

16. On the death of any prisoner, the medical officer shall forthwith record in writing the following particulars, namely:—

when the deceased was taken ill,

when the medical officer was first informed of the illness,

the nature of the disease,

when the prisoner died,

and (in cases where a *post mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the medical officer to be required.

Deputy medical officer.

17. Where a deputy medical officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the medical officer.

Subordinate medical officer.

When there is no deputy medical officer, or when his services are not available by reason of sickness or other cause, the Local Government may, by general or special order, appoint a subordinate medical officer to act as a sub-

stitute for the medical officer, and the subordinate medical officer so appointed shall perform all the duties of the medical officer.

Gaoler.

Residence of gaoler;

18. The gaoler shall reside in the prison, unless the superintendent permits him in writing to reside elsewhere. The gaoler shall not, without the Inspector General's sanction, be concerned in any other employment.

to deliver list of prisoners in punishment-cells;

19. The gaoler shall deliver to the medical officer daily a list of such prisoners as are confined in punishment-cells.

to give notice of death of prisoners; to keep books and accounts;

20. Upon the death of a prisoner, the gaoler shall give immediate notice thereof to the superintendent.

21. The gaoler shall keep, or cause to be kept, the following records:—

(1) a register of warrants;

(2) a book showing when each prisoner is to be released;

(3) a punishment-book for the entry of the punishments inflicted for prison-offences;

(4) a visitors' book for the entry of any observations made by visitors to the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under section 54.

responsible for safe custody of documents;

22. The gaoler shall be responsible for the safe custody of the records to be kept by him under section 21, and also for the commitments and all other documents confided to his care.

not to be absent at night without leave,

23. The gaoler shall not be absent from the prison for a night without permission in writing from the superintendent; but, if absent without leave for a night from unavoidable necessity, he shall report the fact and the cause of it to the superintendent.

Deputy gaoler.

24. Where a deputy gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act or by any rule made under section 54 to be performed by the gaoler.

Where there is no deputy gaoler, or where his services are not available by reason of sickness or other cause, the superintendent shall, when the gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the gaoler.

Subordinate Officers.

Powers of gate-porter.

25. The officer acting as gate-porter, or any other officer of the prison, may examine any thing carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and, if any such articles or property be found, shall give immediate notice thereof to the gaoler.

(Chapter III.—Duties of Officers. Sec. 26. Chapter IV.—Admission, Removal and Discharge of Prisoners. Secs. 27-29. Chapter V.—Discipline of Prisoners. Sec. 30.)

26. Subordinate officers shall not be absent from the prison without leave from the superintendent, or from the gaoler, and before absenting themselves they shall leave their keys in the gaoler's office.

Subordinate officers not to be absent without leave.

CHAPTER IV.

Admission, Removal and Discharge of Prisoners.

27. When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Prisoners to be searched on entrance.

Every criminal prisoner shall also, as soon as possible after admission, be examined by the medical officer, who shall enter in a book, to be kept by the gaoler, a record of the state of the prisoner's health, and any observations which the medical officer thinks fit to add.

Medical examination of criminal prisoners.

28. All money or other effects in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the gaoler.

Effects of criminal prisoners retained.

29. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

Medical examination before removal and discharge of prisoners.

No prisoner shall be removed to any other prison unless the medical officer certifies that the prisoner is free from any illness rendering him unfit for removal.

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the medical officer, such discharge is safe.

CHAPTER V.

Discipline of Prisoners.

30. The requisitions of this Act, with respect to the separation of prisoners, are as follows :—

Requisitions of Act as to separation of prisoners.

(1.)—In a prison containing female prisoners as well as males, the women shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2.)—In a prison where children under 12 years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3.)—Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4.)—Civil prisoners shall be kept apart from criminal prisoners.

(*Chapter V.—Discipline of Prisoners. Secs. 31-33. Chapter VI.—Food, Clothing and Bedding of Prisoners. Secs. 34-36. Chapter VII.—Employment of Prisoners. Sec. 37.*)

Rules as to separate confinement.

31. The Local Government shall have power to make rules—

(1) as to what cells only shall be used for the separate confinement of prisoners:

(2) as to the time during which prisoners not guilty of offences against prison-rules may be confined separately.

Cells to be furnished with means of communication.

32. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners under sentence of death.

33. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the gaoler, and all articles shall be taken from him which the gaoler deems it dangerous or inexpedient to leave in his possession.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

CHAPTER VI.

Food, Clothing and Bedding of Prisoners.

Civil prisoner may maintain himself.

34. A civil prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Civil prisoner not to sell provisions.

35. No part of any food, clothing, bedding or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the superintendent thinks proper.

Allowance of clothing and bedding.

36. Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the superintendent with such clothing and bedding as may be necessary.

Judgment-creditor to defray such allowance.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person or his representative shall be liable to pay to the superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

CHAPTER VII.

Employment of Prisoners.

Work and

37. Civil prisoners may, with the superintendent's permission, work and follow their respective trades and professions.

Civil prisoners finding their own implements and not maintained at the expense of the prison shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the superintendent, for the use of implements and the cost of maintenance. **Earnings of civil prisoners.**

38. The medical officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment. **Examination by medical officer of labouring prisoners.**

But if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the gaoler so to employ him.

39. Provision shall be made by the superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment. **Employment of prisoners sentenced to simple imprisonment.**

The superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

CHAPTER VIII.

Health of Prisoners.

40. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the gaoler. **Names of sick prisoners to be reported to gaoler.**

The gaoler shall, without delay, call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, **Gaoler to report them to medical officer.**

and shall carry into effect the medical officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

41. All directions given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the gaoler, stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the gaoler thinks fit to make, and the date of the entry. **Entry of directions by medical officer in journal.**

42. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided. **Infirmaries.**

CHAPTER IX.

Visits to and Correspondence of Prisoners.

Visits to prisoners.

43. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate.

Correspondence of prisoners.

The Local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline.

Power of gaoler as to visitors.

44. The gaoler may demand the name and address of any visitor to a prisoner, and, when the gaoler has any ground for suspicion, may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor.

In case of any such visitor refusing to be searched, the gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.

Offences in Relation to Prisons.

Carrying liquor, tobacco or drugs into prison;

45. Whoever, contrary to the regulations of the prison, brings, throws or attempts by any means whatever to introduce into any prison, or any place provided under section 5 for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug,

suffering liquor, &c., to be sold in prison;

and every officer of a prison who knowingly suffers any such liquor, tobacco or drug to be sold or used in such prison or place contrary to such regulations,

carrying letters into prison;

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations into or out of any such prison or place,

abetment of such offences;

and whoever abets within the meaning of the Indian Penal Code any offence made punishable by this section, XLV of 1860.

punishment for such offences.

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Notice of penalties to be placed outside prison.

46. The superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under section 45.

CHAPTER XI.

PRISON-OFFENCES.

47. The following acts are declared to be offences against prison-discipline :— List of prison-offences.

(1) wilful disobedience to the regulations of the prison by any prisoner;
(2) assaults or use of criminal force by any prisoner;
(3) insulting or threatening language by any prisoner to any officer or prisoner;
(4) indecent or disorderly behaviour by any prisoner;
(5) wilfully disabling himself from labour;
(6) contumaciously refusing to work;
(7) filing or cutting irons or bars;
(8) idleness or negligence at work by any convicted criminal prisoner;
(9) wilful mismanagement of work by any convicted criminal prisoner;
(10) wilful damage to prison-property;
(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

48. The superintendent may examine any person touching such offences, and determine thereupon, and punish such offences— Superintendent's power to punish prison-offenders.

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days;
(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe;
(3) by corporal punishment not exceeding thirty stripes of a ratan; or
(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the superintendent. Punishment-book to be kept by gaoler.

49. If any prisoner is guilty of repeated offences against prison-discipline, or is guilty of any offence against prison-discipline which the superintendent thinks is not adequately punishable under section 48, the superintendent shall report the same to the Magistrate of the district or any Magistrate empowered to receive complaints without reference by the Magistrate of the district. Punishment of prisoners by Magistrate.

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished,

by confinement in a punishment-cell or in irons for any term not exceeding six months,

or by corporal punishment not exceeding thirty stripes of a ratan,

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal punishment.

50. All corporal punishment within the prison shall be inflicted in the presence of the superintendent, subject to the law for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

Penalty on officers ill-treating prisoners or violating rules.

51. Every gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under section 54 shall be liable, on conviction before the superintendent, to fine not exceeding one hundred rupees, or, on conviction before a Magistrate not being the superintendent, to fine not exceeding two hundred rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Any fine imposed by the superintendent under this section may be recovered, either by deductions from the convicted officer's salary and allowances, or under the law for the time being in force for the recovery of fines.

No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Confinement of prisoners in irons.

52. Whenever the superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the superintendent may so confine them.

Confinement in irons by gaoler of his own authority.

53. Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the gaoler of his own authority, and notice thereof shall be forthwith given to the superintendent.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the superintendent specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the gaoler as his warrant.

Power to make supplementary prison-rules.

54. The Local Government may, from time to time, make rules consistent with this Act—

(1) for the government of prisons and for the guidance of all officers appointed hereunder:

(2) as to sale of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon:
(3) as to the food and clothing of criminal prisoners:
(4) for the employment and control of convicts within or without prisons and for the guidance of the guards in charge of such convicts:
(5) for remission of sentences:
(6) for rewards for good conduct: and
(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

Present rules.

55. All rules now in force relating to any of the matters mentioned in sections 14, 31, 39 and 54 shall, so far as such rules are consistent with this Act, be deemed to have been made under those sections respectively.

Exercise of powers of superintendent.

56. All or any of the powers and duties conferred and imposed by this Act on a superintendent may be exercised and performed by such other officer as the Local Government from time to time appoints in this behalf.

SCHEDULE.

[*Rep. by Act XII of 1873, s. 1 and Sch., Part II.*]

ACT No. XXII OF 1871.

Received the Governor General's assent on the 1st August, 1871.

An Act to authorize the extension of the Chaukídárí Act to places where there is no Jamadár of Police.

Preamble.

WHEREAS by Act No. XX of 1856 (*to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*), section 2, the Local Government is restrained from extending that Act to any city, town, suburb or bázár, unless there be therein (or in some other city, town, suburb or bázár with which the same may be united as thereinafter provided) a police-station under an officer of a grade not below that of a jamadár; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:—

Amendment of section 2 of Act XX of 1856.

1. Instead of the second section of the said Act, the following shall be read:—

[*Vide supra, p. 15.*]

Amendment of section 11.

2. Instead of section 11 of the said Act, the following shall be read:—

[*Vide supra, p. 16.*]

Amendment of section 38.

3. Instead of section 38 of the said Act, the following shall be read :—

[*Vide supra, p. 20.*]

Amendment of section 41.

4. In the forty-first section of the said Act, instead of the words "on the twentieth of each calendar month," there shall be read the words "on the tenth day after the date fixed for the payment of instalments of the tax."

Amendment of Appendices A and C.

5. In Appendix A, at the end of the first paragraph, the words "and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the district" shall be omitted.

In Appendix C, the words "the first payment on the tenth day of the month next succeeding the date of this notification, and every subsequent payment on or before the tenth day of each succeeding month," shall be omitted.

Construction.

Exemption of Bengal.

6. This Act shall be read with, and taken as part of, the said Act XX of 1856, but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.

CRIMINAL TRIBES' ACT, 1871.

CONTENTS.

Preamble.

SECTIONS.

1. Short title · commencement ; local extent.

PART I.

CRIMINAL TRIBES.

2. Local Government to report what tribes should be declared criminal.
3. Report to contain certain particulars.
4. Occupation of wandering tribe to be stated; also proposed residence and means of livelihood.
5. Notification declaring tribe to be criminal.
6. Bar of jurisdiction of Courts in questions relating to notification.
7. Register of members of such tribes.
8. Procedure in making register.
9. Penalties for failing to appear, refusing or giving false information.
10. Charge of register; reporting desirable alterations.
11. By whom alterations to be made; notice to persons affected.
12. Complaints of entries in register.

SECTIONS.

13. Settlement of tribe in place prescribed by Local Government.
14. Removal to other place.
15. Arrangements to be made prior to settlement or removal.
16. Transfer of register of persons ordered to be removed.
17. Power to place tribe in reformatory settlement.
18. Power to make rules.
19. Penalties for breach of rules.
20. Arrest of registered person found beyond prescribed limits.
21. Duties of village-headmen, village-watchmen, &c.
22. Penalty for breach of such duties.
23. [*Rep. by Act XII of 1876, s. 1 and Sch., Pt. I.*]

PART II.

EUNUCHS.

24. Registers of eunuchs and their property; "eunuch" defined.
25. Complaints of entries in register.
26. Penalty on registered eunuch appearing in female clothes; or dancing in public, or for hire.
27. Penalty for registered eunuch keeping boy under sixteen.
28. Maintenance and education of boys whose parents cannot be found.
29. Disabilities of registered eunuchs.
30. Power to require information as to registered eunuch's property; penalty for refusing such information.
31. Rules for making and keeping up registers of eunuchs.

ACT No. XXVII OF 1871.

Received the Governor General's assent on the 12th October, 1871.

An Act for the Registration of Criminal Tribes and Eunuchs.

WHEREAS it is expedient to provide for the registration, surveillance and control of certain criminal tribes and eunuchs; It is hereby enacted as follows:— Preamble.

1. This Act may be called the Criminal Tribes' Act, 1871.[a] Short title.

This section and section 20 extend to the whole of British India: the rest of this Act extends only to the territories under the Governments of the Lieutenant-Governors of Bengal,[b] the North-Western Provinces and the Punjab, respectively, and under the administration of the Chief Commissioner of Oudh. Local extent.

---

[a] The words in s. 1 referring to the commencement of the Act were repealed by Act XVI of 1874, s. 1 and Sch., Pt. I.

[b] The word "Bengal" in s. 1 was added by Act VII of 1876, s. 1.

PART I.

Criminal Tribes.

Local Government to report what tribes should be declared criminal.

2. If the Local Governnmet has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may report the case to the Governor General in Council, and may request his permission to declare such tribe, gang or class to be a criminal tribe.

Report to contain certain particulars.

3. The report shall state the reasons why such tribe, gang or class is considered to be addicted to the systematic commission of non-bailable offences, and, as far as possible, the nature and the circumstances of the offences in which the members of the tribe are supposed to have been concerned; and shall describe the manner in which it is proposed that such tribe, gang or class shall earn its living when the provisions hereinafter contained have been applied to it.

Occupation of wandering tribe to be stated;

4. If such tribe, gang or class has no fixed place of residence, the report shall state whether such tribe, gang or class follows any lawful occupation, and whether such occupation is, in the opinion of the Local Government, the real occupation of such tribe, gang or class, or a pretence for the purpose of facilitating the commission of crimes, and shall set forth the grounds on which such opinion is based; and the report shall also specify the place of residence in which such wandering tribe, gang or class is to be settled under the provisions hereinafter contained, and the arrangements which are proposed to be made for enabling it to earn its living therein.

also proposed residence and means of livelihood.

Notification declaring tribe to be criminal.

5. If, upon the consideration of any such report, the Governor General in Council is satisfied that the tribe, gang or class to which it relates ought to be declared criminal, and that the means by which it is proposed that such tribe, gang or class shall earn its living are adequate, he may authorize the Local Government to publish in the local Gazette a notification declaring that such tribe, gang or class is a criminal tribe, and thereupon the provisions of this Act shall become applicable to such tribe, gang or class.

Bar of jurisdiction of Courts in questions relating to notification.

6. No Court of Justice shall question the validity of any such notification on the ground that the provisions hereinbefore contained, or any of them, have not been complied with, or entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that the provisions of this Act are applicable to the tribe, gang or class specified therein.

Register of members of such tribes.

7. When the notification mentioned in section 5 has been published, the Local Government may direct the Magistrate of any district in which such tribe, gang or class, or any part thereof, is at the time resident, to make a register of the members of such tribe, gang or class, or of any part thereof.

The declaration of the Local Government that any such tribe, gang or class, or any part of it, is resident in any district shall be conclusive proof of such residence.

Procedure in

8. Upon receiving such direction, the said Magistrate shall publish a

notice in the place where the register is to be made, calling upon all the members of such tribe, gang or class, or of such portion thereof as is directed to be registered, to appear, at a time and place therein specified, before such persons as he appoints, and to give those persons such information as may be necessary to enable them to make the register. making register.

9. Any member of any such tribe, gang or class who, without lawful excuse, the burthen of proving which shall lie upon him,— Penalties for failing to appear, refusing or giving false information.

shall fail to appear according to such notice,

or who shall intentionally omit to furnish such information,

or who shall furnish, as true, information on the subject which he knows or has reason to believe to be false,

shall be deemed guilty of an offence under the first parts of section 174 or 176 or 177 of the Indian Penal Code, respectively, as the case may be. XLV of 1860.

10. The register, when made, shall be kept by the District Superintendent of Police, who shall, from time to time, report to the said Magistrate any alterations which ought to be made therein, either by way of addition or erasure. Charge of register; reporting desirable alterations.

11. No alteration shall be made in such register except by or by order of the said Magistrate, and he shall write his initials against every such alteration. Notice shall be given of any such intended alteration, and of the time when, and place where, it is to be made, to every person affected thereby. By whom alterations to be made; notice to persons affected.

12. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may complain to the said Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein, or erase it therefrom, as he may see fit. Complaints of entries in register.

Every order for the erasure of any such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order of entry, retention or erasure, passed by the said Magistrate on any such complaint, either on appeal by the person registered or proposed to be registered, or otherwise.

13. Any tribe, gang or class which has been declared to be criminal, and which has no fixed place of residence, may be settled in a place of residence prescribed by the Local Government. Settlement of tribe in place prescribed by Local Government.

14. Any tribe, gang or class which has been declared to be criminal, or any part thereof, may, by order of the Local Government, be removed to any other place of residence. Removal to other place.

15. No tribe, gang or class shall be settled or removed under the provisions of this Act until such arrangements as the Local Government shall, with the concurrence of the Governor General in Council, consider suitable have been made for enabling such tribe, gang or class, or such part thereof as is to be so settled or removed, to earn a living in the place in or to which it is to be settled or removed. Arrangements to be made prior to settlement or removal.

Transfer of register of persons ordered to be removed.

16. When the removal of any persons has been ordered under this Act, the register of such persons' names shall be transferred to the District Superintendent of Police of the district to which such persons are removed, and the Magistrate of the said district and the Commissioner of the division in which it is situated shall thereupon be empowered to exercise respectively the powers provided in sections 11 and 12.

Power to place tribe in reformatory settlement.

17. The Local Government may, with the sanction of the Governor General in Council, place any tribe, gang or class which has been declared to be criminal, or any part thereof, in a reformatory settlement.

Power to make rules.

18. The Local Government may, with the previous consent of the Governor General in Council, make rules to prescribe—

(1) the form in which the register shall be made by the said Magistrate;

(2) the mode in which the said Magistrate shall publish the notice prescribed in section 8, and the means by which the persons whom it concerns, and the headmen, village-watchmen and landowners or occupiers of the village, in which such persons reside, [a]or the agents of such landowners or occupiers,[a] shall be informed of its publication;

(3) the mode in which the notice prescribed in section 11 shall be given;

(4) the limits within which persons whose names are on the register shall reside;

(5) conditions as to holding passes, under which such persons may be permitted to leave the said limits;

(6) conditions to be inserted in any such pass as to—

(*a*) the places where the holder of the pass may go or reside;

(*b*) the officers before whom, from time to time, he shall be bound to present himself; and

(*c*) the time during which he may absent himself;

(7) conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate or persons authorised by him that the persons whose names are on the register are actually present at given times within the said limits;

(8) the inspection of the residences and villages of any such tribe, gang or class, and the prevention or removal of contrivances for enabling the residents therein to conceal stolen property, or to leave their place of residence without leave;

(9) the terms upon which registered persons may be discharged from the operation of this Act;

(10) the mode in which criminal tribes shall be settled and removed;

(11) the control and supervision of reformatory settlements;

(12) the works on which, and the hours during which, persons placed in a reformatory settlement shall be employed, the rates at which they

---

[a]-[a] These words in s. 18 (2) were added by Act VII of 1876, s. 2.

shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour after defraying the whole or such part of the expenses of their supervision and control as to the Local Government shall seem fit;

(13) the discipline to which persons endeavouring to escape from any such settlement, or otherwise offending against the rules for the time being in force, shall be submitted; the periodical visitation of such settlement, and the removal from it of such persons as it shall seem expedient to remove;

(14) and generally to carry out the purposes of this Act.

Penalties for breach of rules.

19. Any person violating any of the rules made under section 18 shall be punished with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments; and, on any second conviction for a breach of any of the said rules, with rigorous imprisonment which may extend to one year, or with fine, or with whipping to be inflicted in the manner prescribed by any law in force for the time being in relation to whipping, or with all or any two of those punishments.

Arrest of registered person found beyond prescribed limits.

20. Any person registered under the provisions of this Act who is found in any part of British India, beyond the limits so prescribed for his residence, without such pass as may be required by the said rules, or in a place or at a time not permitted by the conditions of his pass,

or who escapes from a reformatory settlement,

may be arrested without warrant by any police-officer or village-watchman, and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided, or to the reformatory settlement from which he has escaped (as the case may be), there to be dealt with according to the rules under this Act for the time being in force.

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this section: Provided that an order from the Local Government or from the Inspector General of Prisons shall not be necessary for the removal of such persons.

Duties of village-headmen, village-watchmen, &c.

21. It shall be the duty of every village-headman and village-watchman in a village in which any persons belonging to a tribe, class or gang which has been declared criminal reside, and of every owner or occupier of land on which any such persons reside, [a]or of the agent of any such owner or occupier,[a] to give the earliest information in his power at the nearest police-station of—

(1) the failure of any such person to appear and give information as directed in section 8;

[a-a] These words in s. 21 were added by Act VII of 1876, s. 2.

(2) the departure of any such person from such village or from such land (as the case may be).

And it shall be the duty of every village-headman and village-watchman in a village, and of every owner or occupier of land, [a]or of the agent of such owner or occupier,[a] to give the earliest information in his power at the nearest police-station of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any such tribe, class or gang.

Penalty for breach of such duties.

22. Any village-headman, village-watchman, owner or occupier of land, [a]or the agent of such owner or occupier,[a] who shall fail to comply with the requirements of section 21, shall be deemed to have committed an offence under the first part of section 176 of the Indian Penal Code. XLV of 1860.

23. [*Rep. by Act XII of 1876, s. 1 and Sch., Pt. I.*]

PART II.

EUNUCHS.

Registers of eunuchs and their property.

24. The Local Government shall cause the following registers to be made and kept up by such officer as, from time to time, it appoints in this behalf:—

(*a*) a register of the names and residences of all eunuchs residing in any town or place to which the Local Government specially extends this Part of this Act, who are reasonably suspected of kidnapping or castrating children, or of committing offences under section 377 of the Indian Penal Code, or of abetting the commission of any of the said offences; and

(*b*) a register of the property of such of the said eunuchs as, under the provisions hereinafter contained, are required to furnish information as to their property.

"Eunuch" defined.

The term "eunuch" shall, for the purposes of this Act, be deemed to include all persons of the male sex who admit themselves, or on medical inspection clearly appear, to be impotent.

Complaints of entries in register.

25. Any person deeming himself aggrieved by any entry made or proposed to be made in such register, either when the register is first made or subsequently, may complain to the said officer, who shall enter such person's name, or erase it, or retain it, as he sees fit.

Every order for erasure of such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order passed by such officer on such complaint, either on appeal by the complainant or otherwise.

Penalty on registered eunuch appearing in female clothes;

26. Any eunuch so registered who appears, dressed or ornamented like a woman, in a public street or place, or in any other place, with the intention of being seen from a public street or place,

[a] These words in ss. 21 and 22 were added by Act VII of 1876, s. 2.

or dancing in public, or for hire.

or who dances or plays music, or takes part in any public exhibition, in a public street or place or for hire in a private house,

may be arrested without warrant, and shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Penalty on registered eunuch keeping boy under sixteen.

27. Any eunuch so registered who has in his charge, or keeps in the house in which he resides, or under his control, any boy who has not completed the age of sixteen years, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Maintenance and education of boys whose parents cannot be found.

28. The Magistrate may direct that any such boy shall be returned to his parents or guardians, if they can be discovered. If they cannot be discovered, the Magistrate may make such arrangements as he thinks necessary for the maintenance and education of such boy, and may direct that the whole or any part of a fine inflicted under section 27 may be employed in defraying the cost of such arrangements.

The Local Government may direct out of what local or municipal fund so much of the cost of such arrangements as is not met by the fine imposed shall be defrayed.

Disabilities of registered eunuchs.

29. No eunuch so registered shall be capable—

(*a*) of being or acting as guardian to any minor,

(*b*) of making a gift,

(*c*) of making a will, or

(*d*) of adopting a son.

Power to require information as to registered eunuch's property.

30. Any officer authorized by the Local Government in this behalf may, from time to time, require any eunuch so registered to furnish information as to all property, whether movable or immovable, of or to which he is possessed or entitled, or which is held in trust for him.

Penalty for refusing such information.

Any such eunuch intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows, or has reason to believe, to be false, shall be deemed to have committed an offence under section 176 or 177 of the Indian Penal Code, as the case may be.

XLV of 1860.

Rules for making and keeping up registers of eunuchs.

31. The Local Government may, with the previous sanction of the Governor General in Council, make rules for the making and keeping up and charge of registers made under this Part of the Act.

THE PUNJAB LAWS ACT, 1872.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

SECTIONS.

2. Local extent. Commencement.
3. Enactments in force.
4. Enactments repealed.

CIVIL JUDICATURE.

5. Decisions in certain cases to be according to Native law.
6. Decisions in cases not specially provided for.
7. Local customs and mercantile usages when valid.

DESCENT OF JÁGÍRS.

8. Rule of descent in family of assignee of land-revenue.

PRE-EMPTION.

9. Right of pre-emption.
10. Presumption as to its existence.
11. Its existence in towns to be proved.
12. Devolution of right when property to be sold or foreclosed is situate within a village.
13. Notice to pre-emptors.
14. Loss of right of pre-emption.
15. Right of pre-emptor on foreclosure.
16. Suit to enforce right of pre-emption.
16A. Power to require payment into Court.
17. Decree to fix time for payment.
18. Effect of non-payment of purchase-money.
19. Party to sale by joint owners cannot withdraw his share and claim pre-emption as to rest.
20. Preferential right of co-sharers in a well where chakdárí tenure prevails.

DECREES CONCERNING LAND.

21. [*Rep. by Act XVII of 1887, s. 2 and Sch.*]

INSOLVENCY.

22. Power to invest Courts with insolvency-jurisdiction.
23. Petition to Court for adjudication of insolvency.
24. Procedure of Court when debtor's liabilities amount to more than Rs. 500. Insolvent defined.
25. Power to imprison insolvent guilty of misconduct.
26. Fraudulent transfers in expectation of insolvency may be annulled.
27. Power to sell or administer insolvent's estate.
28. Court to give effect to compositions.
29. When Court may order discharge of insolvent; effect of order of discharge.
30. Preceding sections not to apply to persons admitted to benefit of insolvency-law in presidency-towns.
31. Chief Court empowered to frame rules.
32. Power to exclude any class from operation of such rules.
33. Saving of previous insolvency-proceedings.

MINORS AND THE COURT OF WARDS.

SECTIONS.

34. Bar of jurisdiction in certain cases.
35. Jurisdiction of Court of Wards; proviso; further proviso.
36. Deputy Commissioner may inquire into circumstances affecting jurisdiction.
37. Appeal to Commissioner against order under section 36.
38. Extent of jurisdiction.

CRIMINAL JUDICATURE.

39. Indian Penal Code to apply to offences committed previous to first January, 1862; saving of privileges conferred on certain Chiefs.
39A. Power to establish a system of watchmen, and to make rules.
39B. Obligation to assist watchmen and headmen. Person obstructing watchman or headman may be arrested without warrant.
39C. Power to direct local taxation for payment of Police enrolled under Act V of 1861.
39D. Public notice of taxes proposed to be levied; objections to taxation; procedure thereon.
39E. Power to fix rates of tax.
39F. Power to make rules for collection of taxes.
39G. Indemnity-clause.

HONORARY POLICE-OFFICERS.

40. Local Government may confer powers of Police-officer.

TRACK LAW.

41. Trackers may call for assistance in carrying on tracks.
42. Penalty for withholding assistance or conniving at offence or escape; limit to fine; appeal to Chief Court; fine may be awarded to injured parties, and fee to tracker.

SLAUGHTER OF KINE.

43. Control of slaughter of kine and sale of beef.
44. Control of entry into towns of bands of armed men.
45. Powers of Magistrate of district as to foreign vagrants.
46. Surveillance, &c., of band failing to comply with Magistrate's order.

MISCELLANEOUS.

47. Crossing of streams on buoys or skins.
48. Use of pasturage or natural product of Government land.
49. [*Rep. by Act I of 1878, s. 2 and Sch.*]
50. Power to make rules as to matters mentioned in sections 43 to 49; existing rules.
50A. Conditions as to validity of rules hereafter made under this Act.
50B. Penalties for breach of such rules.
51. Republication of rules and orders.
52. [*Rep. by Act X of 1879, s. 2.*]
SCHEDULE I. Enactments declared to be in force.
SCHEDULE II. Enactments repealed.

ACT No. IV of 1872.

Received the Governor General's assent on the 28th March, 1872.

An Act for declaring which of certain rules, laws and regulations, have the force of law in the Punjab, and for other purposes.

Preamble.

WHEREAS certain rules, laws and regulations, made heretofore for the Punjab, acquired the force of law under the provisions of section 25 of the Indian Councils' Act, 1861; and whereas it is expedient to declare which of the said rules, laws and regulations shall henceforth be in force in the Punjab, and to amend, consolidate or repeal others of the said rules, orders and regulations; It is hereby enacted as follows:— 24 & 25 Vic., c. 67.

Short title.

1. This Act may be called the Punjab Laws Act, 1872:

Local extent.

2. It extends to the territories now under the administration of the Lieutenant-Governor of the Punjab, but not so as to alter the effect of any regulations made for any parts of the said territories under the Statute 33 Vic., cap. 3, section 1;

Commencement.

And it shall come into force on the first day of June, 1872.

Enactments in force.

3. The regulations, Acts and orders specified in the first schedule hereto annexed are in force in the Punjab to the extent specified in the third column of the said schedule.

Enactments repealed.

4. The regulations, Acts and orders specified in the second schedule hereto annexed are repealed to the extent specified in the third column thereof.

CIVIL JUDICATURE.

Decisions in certain case to be according to Native law.

*5. In questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions or any religious usage or institution, the rule of decision shall be—

(*a*) any custom applicable to the parties concerned, which is not contrary to justice, equity or good conscience, and has not been, by this or any other enactment, altered or abolished, and has not been declared to be void by any competent authority;

(*b*) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindú law, in cases where the parties are Hindús, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is above referred to.

Decisions in cases not specially provided for.

6. In cases not otherwise specially provided for, the Judges shall decide according to justice, equity and good conscience.

Local customs

7. All local customs and mercantile usages shall be regarded as valid

* S 5 substituted by Act XII of 1878, s. 1.

unless they are contrary to justice, equity or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority.

and mercantile usages when valid.

Descent of Jágírs.

8. In all cases in which Government has declared any rule of descent to prevail in any family or families of assignees of land-revenue, such rule of descent shall be held to prevail, and to have prevailed, amongst them from the time when the declaration was made.

Rule of descent in family of assignee of land-revenue.

Pre-emption.

[a]9. The right of pre-emption is a right of the persons hereinafter mentioned, or referred to, to acquire, in the cases hereinafter specified, immoveable property in preference to all other persons. It arises in respect of sales (whether under a decree or otherwise) of immoveable property and of foreclosures of rights to redeem such property.

Right of pre-emption.

[a]10. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed—

Presumption as to its existence.

(*a*) to exist in all village-communities, however constituted, and

(*b*) to extend to the village-site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights of occupancy affecting such lands.

[a]11. The right of pre-emption shall not be presumed to exist in any town or city, or any sub-division thereof, but may be shown to exist therein, and to be exercisable therein by such persons and under such circumstances as the local custom prescribes.

Its existence in towns to be proved.

[a]12. If the property to be sold or the right to redeem which is to be foreclosed is situate within, or is a share of, a village, the right to buy or redeem such property belongs, in the absence of a custom to the contrary,—

Devolution of right when property to be sold or foreclosed is situate within a village.

(*a*) first, in the case of joint undivided immoveable property, to the co-sharers;

(*b*) secondly, in the case of villages held on ancestral shares, to co-sharers in the village, in order of their relationship to the vendor or mortgagor;

(*c*) thirdly, if no co-sharer or relation of the vendor or mortgagor claims to exercise such right, to the landowners of the patti or other subdivision of the village in which the property is situate, jointly;

(*d*) fourthly, if the landowners of the patti or other subdivision make no joint claim to exercise such right, to such landholders severally;

(*e*) fifthly, to any landholder of the village;

(*f*) sixthly, to the tenants (if any) with rights of occupancy in the property;

---

[a] Ss. 9-12 substituted by Act XII of 1878, s. 2.

(*g*) seventhly, to the tenants (if any) with rights of occupancy in the village:

Provided that, when the property is land, to the trees standing on which the Government is entitled, such right belongs to the Lieutenant-Governor of the Punjab in preference to all other persons.

Where two or more persons are equally entitled to such right, the vendor or mortgagor may determine which of them shall exercise the same.

Nothing in the former part of this section shall be deemed to affect the Punjab Tenancy Act,[a] 1868, section 34; but, if a landlord refuse or neglect to exercise the right conferred on him by that section, such right belongs, first, to the tenants (if any) with rights of occupancy in the property concerned, and secondly, to the tenants (if any) with right of occupancy in the village in which such property is situate. XXVIII of 1868.

Notice to pre-emptors.

[b]13. When any person proposes to sell any property, or to foreclose, the right to redeem any property, in respect of which any persons have a right of pre-emption, he shall give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of the mortgage, as the case may be.

Such notice shall be given through any Court within the local limits of whose jurisdiction the property or any part thereof is situate, and shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village, town or city in which the property is situate.

Loss of right of pre-emption.

[b]14. Any person having a right of pre-emption in respect of any property proposed to be sold shall lose such right, unless within three months from the date of giving such notice he pays or tenders to the person so proposing to sell, the price aforesaid or the fair market-value of the property, or deposits the same in the Court from which the notice issued. When any money is so deposited, the Court shall give notice of such deposit to the vendor or mortgagor, as the case may be.

Right of pre-emptor on foreclosure.

[b]15. When the right of pre-emption arises in respect of the foreclosure of the right to redeem any property, any person entitled to such right may, at any time within three months after the giving of the notice required by section 13, pay or tender to the mortgagee or his successor in title the amount specified in such notice, or the amount really due on the footing of the mortgage, and shall thereupon acquire a right to purchase the property.

On completion of the purchase the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage, for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

---

[a] Act XXVIII of 1868 was repealed by Act XVI of 1887, s. 3 and Sch.
[b] Ss. 13-15 substituted by Act XII of 1878, s. 2.

Suit to enforce right of pre-emption.

[a]**16.** Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely) :—

(*a*) that no due notice was given as required by section 13 ;

(*b*) that tender was made under section 14 or section 15 and refused ;

(*c*) in the case of a sale, that the price stated in the notice was not fixed in good faith ;

(*d*) in the case of a foreclosure, that the amount claimed by the mortgagee was not really due on the footing of the mortgage, or was not claimed in good faith, or that it exceeds the fair market-value of the property mortgaged.

If, in the case of a sale, the Court finds that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If, in the case of a foreclosure, the Court finds that the amount claimed by the mortgagee was not really due on the footing of the mortgage or that it was not claimed in good faith, or that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

Power to require payment into Court.

[a]**16A.** When any suit is instituted under section 16, the Court may in its discretion require the plaintiff to pay into Court the price or market-value of the property, or, in the case of a right to redeem property, the amount really due on the footing of the mortgage, and, if such requisition is not complied with in such time as the Court directs, may reject the plaint.

Decree to fix time for payment.

[a]**17.** If the Court find for the plaintiff, the decree shall specify a day, not being a holiday, on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid.

Effect of non-payment of purchase-money.

[a]**18.** If such purchase-money or amount is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or foreclosure, lose his right of pre-emption over the property to which the decree relates.

Party to sale cannot withdraw his share and claim pre-emption as to rest.

19. In case of sale by joint owners, no person who has been a party can withdraw his own share and claim a right of pre-emption as to the rest.

Preferential right of co-sharers in a well where chakdárí tenure prevails.

20. In villages in which the chakdárí tenure prevails, the co-sharers in a well have a right of pre-emption as to shares in such well in preference to a general proprietor in any such village having no share in the well but merely receiving a haq zamíndárí from the "chakdárs."

DECREES CONCERNING LAND.

Copy of decrees affecting land to be forwarded to Deputy Commissioner.

21. [*Rep. by Act XVII of 1887, s. 2 and Sch.*]

---

[a] Ss. 16-18 substituted by Act XII of 1878, s. 2.

INSOLVENCY.

Power to invest Courts with insolvency-jurisdiction.

22. The Local Government may invest any Court or any class of Courts with insolvency-jurisdiction in any specified local area.

Petition to Court for adjudication of insolvency.

23. Any debtor, whose debts amount to rupees five hundred or upwards, and any creditor or creditors to whom an aggregate sum of not less than rupees five hundred is due from any such debtor, may petition the Court having local insolvency-jurisdiction that the debtor be adjudicated an insolvent.

Procedure of Court when debtor's liabilities amount to more than Rs. 500.

24. If it appear that the debtor's liabilities amount to more than rupees five hundred, the Court may—

(1) call upon the debtor to make a statement of his assets and liabilities;

(2) invite by proclamation or otherwise the appearance of persons to record claims against the debtor;

(3) register all claims so recorded;

(4) call upon the debtor to give reasonable security for his appearance, or, on default of reasonable security, order his confinement in the civil jail;

(5) attach all the debtor's property in the Punjab, moveable or immoveable;

(6) pass an order exempting the person and property of the debtor from further legal process, pending inquiry and the final orders of the Court.

Insolvent defined.

A debtor on whom the order referred to in clause 6 of this section is passed is deemed an insolvent.

Power to imprison insolvent guilty of misconduct.

25. The Court shall make full inquiry into the origin, nature and circumstances of the debts, and the conduct of the debtor in relation thereto; and, if the insolvent be shown to have been guilty of concealment, fraud, recklessness or other gross misconduct in reference to the debts, and if his discharge, for that reason, is opposed by any of the creditors, the Court may, at its discretion, award a term of imprisonment in the civil jail not exceeding one year.

Fraudulent transfers in expectation of insolvency may be annulled.

26. If it appear that the debtor, after becoming unable to meet his liabilities, or in expectation of becoming so, has transferred his property, or any part thereof, with a view to defrauding his creditors, or to giving one or more creditors a fraudulent preference over the others, the Court shall annul such transfer, and treat the property transferred as the other property of the debtor.

Power to sell or administer insolvent's estate.

27. The property of the insolvent shall be sold or administered, under the direction of the Court, either through the agency of its own officers or of assignees to be appointed by the Court, in the manner most conducive to the interest of the creditors, and the proceeds shall be divided rateably amongst them.

28. The Court shall give effect to any composition or arrangement agreed upon between the debtor and the majority of the creditors: Provided that no injustice or injury appears to be inflicted by such composition or arrangement on any of the parties concerned, and that no fraud nor collusion is suspected. If any creditor objects to such arrangement, the Court shall decide as to the reasonableness of the objection.

Court to give effect to compositions.

29. When the sale or administration of the insolvent's property is complete, the Court may order the insolvent to be discharged, on his signing an agreement to liquidate, from any property which he may subsequently acquire, such portion of his debts as remains unpaid. Such order of discharge shall preclude any creditor whose claim is registered from suing the debtor in respect of such claim, unless it be shown that the debtor has acquired property, since the order of discharge, out of which the claim might have been defrayed.

When Court may order discharge of insolvent.

Effect of order of discharge.

30. Nothing in the preceding sections shall apply to persons who may have been admitted to the benefit of any insolvency-law at a presidency-town; nor shall any order passed under the preceding sections affect the remedy of any creditor against his debtor in respect of property which, at the time of the insolvency of such debtor, was not in the Punjab.

Preceding sections not to apply to persons admitted to benefit of insolvency-law in presidency-towns.

31. The Chief Court of the Punjab may, with the sanction of the Local Government, from time to time frame and issue rules, conformable to the provisions hereinbefore contained, for the better administration of insolvent estates, and may with the like sanction alter any such rules.

Chief Court empowered to frame rules.

32. The Local Government may at any time, with the previous sanction of the Governor General in Council, exclude any particular class or race from the operation of these rules.

Power to exclude any class from operation of such rules.

33. No proceedings of any Court in the exercise of insolvency-jurisdiction, had before the passing of this Act, shall be held to have been invalid solely on the ground that such Court did not possess such jurisdiction; all cases pending in any Court of Insolvency when this Act comes into force shall be subsequently conducted, so far as may be, in conformity with the rules now prescribed.

Saving of previous insolvency-proceedings.

MINORS AND THE COURT OF WARDS.

34. Deputy Commissioners shall be Courts of Wards within their respective districts, but shall exercise the functions of such Courts subject to the control of the Commissioner and Financial Commissioner.

Bar of jurisdiction in certain cases.

*35. The Court of Wards may, at its discretion, take charge of, and administer, the estates of all disqualified persons, that is to say:—

Jurisdiction of Court of Wards.

(a) females deemed by the Local Government incompetent to manage their estates;

(b) persons who have not completed the age of eighteen years;

(c) idiots;

* S. 35 substituted by Act XII of 1878, s. 3.

(*d*) lunatics;

(*e*) persons declared by the Local Government incapable, owing to physical defects or infirmities, of managing their own estates;

(*f*) persons convicted of a non-bailable offence and unfitted, in the opinion of the Local Government, by vice or bad character to manage their estates;

(*g*) persons declared by the Local Government, on their own application, to be unfitted to manage their estates:

Proviso.

Provided that the Court of Wards shall not take charge of or administer the estate of any person of any of the classes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of this section, unless he has inherited a beneficial interest in an estate for which a settlement was made with his ancestor, or in respect of which he would have been entitled to be settled with, if he had been competent to make an agreement for the payment of revenue, or unless he is the holder by inheritance of an assignment of land-revenue:

Further proviso.

Provided also that the Court of Wards shall not take charge of, or administer any beneficial interest in, an estate in which more persons than one have a joint undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards.

Deputy Commissioner may inquire into circumstances affecting jurisdiction.

36. The Deputy Commissioner may make an inquiry into the minority, lunacy or idiocy of any person who, he has reason to believe, would, if found to be a minor, lunatic or idiot, be subject to the jurisdiction of the Court of Wards, and into the circumstances and property of any such person, and may make an order declaring such person to be subject to the jurisdiction of the Court of Wards.

Appeal to Commissioner against order under section 36.

37. Any such person may appeal to the Commissioner of the Division against any such order on the ground that he is not, or has ceased to be, a minor, or that he is not, or has ceased to be, a lunatic or idiot, and the decision of the Commissioner shall be certified to the Court of Wards, and shall be final.

Extent of jurisdiction.

38. The jurisdiction of the Court of Wards shall extend to the care and education, and to the management of the property, of the persons subject thereto; and the Local Government shall make rules as to the manner in which, and the agents by whom, such jurisdiction shall be exercised.

* Persons whose property is under the superintendence of the Court of Wards shall not be competent to create, without the sanction of the Court, any charge upon, or interest in, such property or any part thereof.

CRIMINAL JUDICATURE.

Indian Penal Code to apply to offences committed previous to 1st January, 1862.

39. The provisions of the Indian Penal Code, with the exception of Chapter VI, shall be applicable to all offences committed before 1st January, 1862, in territory which was, at the time of the commission of such offence, subject to the Government of the Punjab:- XLV of 1860.

* Part 2 of s. 38 added by Act XII of 1878, s. 4.

Provided that nothing contained in this section shall affect any privilege conferred on certain Chiefs in the Punjab by the Governor-General in Council, or by the Board of Administration for the Affairs of the Punjab, nor any indemnity or pardon granted by competent authority.

Saving of privileges conferred on certain Chiefs.

39A. The Local Government may establish a system of village-watchmen or municipal-watchmen in any part of the territories under its administration, and in furtherance of this object may, from time to time, make rules to provide for the following matters :—

Power to establish a system of watchmen, and to make rules.

(*a*) the definition of the limits of watchmen's beats;

(*b*) the determination of the several grades of watchmen, and the number of each grade to be appointed to each beat;

(*c*) the appointment, suspension, dismissal and resignation of watchmen of each grade;

(*d*) the equipment and discipline of, and the control and supervision over, such watchmen;

(*e*) the conferring upon them, and the exercise by them, of any powers, and the enjoyment by them of any protection or privilege, which may be exercised and enjoyed by a police-officer under any law for the time being in force;

(*f*) the performance by them of such duties relating to police, sanitation or statistics, or for the benefit of the village-communities or municipalities within their respective beats, as the Local Government thinks fit;

(*g*) the exercise of authority over, and the rendering of aid to, such watchmen by headmen of the villages or members of the Municipal Committees of the towns comprised in their respective beats;

(*h*) the performance, by the headmen of villages comprised in the beat of any watchman, of any of the duties of a village-watchman in aid of, or substitution for, such watchman;

(*i*) the exercise, by such village-headmen for the purposes referred to in clauses (*g*) and (*h*), or by members of municipal committees for the purposes referred to in clause (*g*) of this section, of any of the powers, and the enjoyment by such headmen or members of any privilege or protection, of a village-watchman or a municipal-watchman, as the case may be;

(*j*) the determination of the rate at which, and the mode in which, watchmen shall be paid, and, in the case of village-watchmen, of the mode in which their pay, the expenses of their equipment, and other charges connected with the village-watchman-system shall be provided for, whether out of cesses or funds already leviable or available in the villages comprised in the beat, or by a special tax in money or kind to be imposed on any class of persons residing or owning

* Ss. 39A and 39B were substituted by Act XXIV of 1881, s. 2, for those originally added by Act XV of 1875.

property in, or resorting to, such villages, or partly in one of these ways and partly in the other;

(*k*) the collection with or without the aid of the village-headmen, and by any process available for the realization of the land-revenue, of any tax imposed under clause (*j*) of this section, and the application of, and the mode of accounting for, the same; and generally for

(*l*) the efficient working of the system of village-watchmen or municipal-watchmen:

Provided—

1st, that the rules to be made regarding the appointment of village-watchmen shall allow to the headmen of the villages comprised in the beat to which such a watchman is to be appointed, a power of nomination to be exercised in such manner, and subject to such reasonable conditions, as may be prescribed by such rules;

2ndly, that the rules to be made under clause (*j*) of this section with regard to village-watchmen shall include provisions for recording and securing due consideration of the views and opinions on the matters therein referred to of the headmen of the villages comprised in each beat.

Obligation assist watchmen and headmen.

[a]39B. Every person is bound to render to a village-watchman, or municipal-watchman, or village-headman discharging the duties of a police-officer under the rules made hereunder, all the assistance which he is bound to render to a police-officer.

Persons obstructing watchman or headman may be arrested without warrant.

Any person who obstructs such watchman or headman in the discharge of such duties may be arrested without warrant by a police-officer or by any watchman or village-headman empowered in this behalf by the Local Government.

Power to direct local taxation for payment of police enrolled under Act V of 1861.

[b]39C. Whenever it seems to the Local Government expedient that the duties of watch and ward and other internal police-service of any town or village not comprised within the limits of a municipality or within the limits of a village-watchman's beat, as defined under the power conferred by section 39A, should be performed by police-officers enrolled under Act V of 1861, the Local Government may direct that the said service shall be so performed, and may also, with the previous sanction of the Governor General in Council, direct that the charges for the time being fixed by such Government on account of such service shall be defrayed by taxes to be levied in such town or village.

Public notice of taxes proposed to be levied.

[b]39D. When the Local Government has, under section 39C, directed that taxes shall be levied in any town or village, the Deputy Commissioner may from time to time issue a public notice in such town or village, explaining the nature of the taxes he proposes to levy.

---

[a] See footnote on preceding page.
[b] Ss. 39C and 39D added by Act XV of 1875, s. 2.

Any inhabitant of such town or village objecting to the taxation thus proposed may, within fifteen days from the publication of such notice, send his objection in writing to the Deputy Commissioner. **Objections to taxation.**

After the expiry of fifteen days from the publication of the notice, the Deputy Commissioner may submit, for the information of the Local Government, a report of the proposal made by him. Such report shall contain specific mention of the objections, if any, urged to his proposal, and his opinion on such objections. **Procedure thereon.**

No such tax shall be levied until it has, upon such report, been approved by the Local Government.

[a]**39E.** When any such tax has been so approved by the Local Government, the Deputy Commissioner may from time to time, subject to such rules consistent with this Act as the Local Government may from time to time prescribe, determine the rates at which it is to be levied. **Power to fix rates of tax.**

[a]**39F.** The Local Government may from time to time make rules to provide for the collection of such taxes by any process available for the realization of the land-revenue, and to regulate the application and mode of accounting for the same. **Power to make rules for collection of taxes.**

[a]**39G.** All taxes and collections which have been hitherto levied for the purposes of village and town police, or for the maintenance of village-watchmen, shall be deemed to have been levied in accordance with law. **Indemnity-clause.**

Honorary Police-officers.

40. The Local Government may, if it thinks fit, confer on any person any of the powers which may be exercised by a police-officer under any Act for the time being in force,[b] and may withdraw any powers so conferred.[b] **Local Government may confer powers of police-officer.**

Track Law.

41. When an offence is, has been, or may reasonably be supposed to have been, committed, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or other property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of a village, the person following such tracks may call upon any headman or village-watchman in such village to assist in carrying on the tracks. **Trackers may call for assistance in carrying on tracks.**

42. If such headman or watchman do not forthwith give such assistance, or if the inhabitants of such village do not afford full opportunity for search in their houses for the offenders, or if, from the circumstances of the case, there shall appear good reason to believe that the inhabitants of such village, or any of them, were conniving at the offence or at the escape of the offenders, and such offenders cannot be traced beyond the village, the Magistrate of the **Penalty for withholding assistance or conniving at offence or escape.**

---

[a] Ss. 39E, 39F and 39G added by Act XX of 1875, s. 2.
[b] These words in s. 40 were added by Act XII of 1878, s. 5.

district may, with the previous sanction of the Commissioner of the division, inflict a fine upon such village not exceeding five hundred rupees, except in the case of stolen property over five hundred rupees in value, in which case the fine shall not exceed the value of such property.

Limit to fine.

An appeal against all convictions under this section shall lie to the Chief Court.

Appeal to Chief Court.

The Magistrate may direct that the fine imposed under this section or any part thereof shall be awarded to any persons injured by such offence in compensation for such injury; and, in the case of stolen property recovered through the agency of a tracker, may direct that such property be not restored to its owner until he has paid to such tracker such fee, not exceeding one-fourth part of the value of the stolen property, as to the said Magistrate seems fit.

Fine may be awarded to injured parties and fee to tracker.

SLAUGHTER OF KINE.

Control of slaughter of kine and sale of beef.

*43. The slaughter of kine and the sale of beef shall not take place, except subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

ARMED MEN AND FOREIGN VAGRANTS.

Control of entry into towns of bands of armed men.

44. No band of armed men shall enter into any city or town, except subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

Powers of Magistrate of district as to foreign vagrants.

45. The Magistrate of the district may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace or to commit any offence under the Indian Penal Code, prohibit such band from entering his district; or, if they are already in his district, may require them within a given time to leave it. XLV of 1860.

Surveillance, &c., of band failing to comply with Magistrate's order.

46. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the Local Government, and the Local Government may give such directions for the surveillance, control or deportation of such band as to it seems fit.

MISCELLANEOUS.

Crossing of streams on buoys or skins.

*47. No person shall cross any river or stream on a buoy or inflated skin nor shall have in his possession or custody any buoy or skin for the purpose of being used in crossing any river or stream, except subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

Use of pasturage or natural product of Government land.

48. No person shall make use of the pasturage or other natural product of any land being the property of the Government, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

---

* In ss. 43, 44 and 47 the words "with the consent and" were repealed by Act XII of 1878, s. 6.

49. [*Rep. by Act I of 1878, s. 2 and Sch.*]

Growing, selling or keeping opium.

[a]50. The Local Government may from time to time make rules as to the matters mentioned in sections 43 to 49[b] inclusive.

Power to make rules.

All existing rules upon such matters, which might have been made under this section had it been in force, shall be deemed to have been made hereunder.

Existing rules.

[a]50A. No rules hereafter made by the Local Government under any power conferred by this Act shall be valid unless—

Conditions as to validity of rules hereafter made under this Act.

(*a*) they are consistent with the laws for the time being in force in the Punjab;

(*b*) they are published in the official Gazette;

(*c*) previous to such publication they are sanctioned by the Governor General in Council.

[a]50B. The Local Government may, in making any rule under any of the powers conferred by this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment on conviction before a Magistrate not exceeding six months' imprisonment, or three hundred rupees fine, or both.

Penalties for breach of such rules.

51. All rules which the Local Government is empowered to issue under this Act, and all circulars issued by the Chief Court, shall, with the previous sanction of the Governor General in Council, be re-published once at least in every year; and, upon such re-publication, shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made in the course of the preceding year, or may have become necessary or advisable, shall be embodied therewith; and, upon such re-publication, all such rules and circulars previously issued shall be repealed.

Re-publication of rules and orders.

[c]52. [*Rep. by Act X of 1879, s. 2.*]

Recovery of advances made by Government.

[d]SCHEDULE I.

ENACTMENTS DECLARED TO BE IN FORCE.

Explanation.—This schedule does not refer to any Act which is in its terms applicable to the Punjab, or which has been extended to the Punjab by competent authority.

Number and year.	Title.	Extent to which the enactment is in force.
Reg. I of 1798 .	A Regulation to prevent Fraud and Injustice in Conditional Sales of Land under Deeds of Bai-bil-wafa, or other Deeds of the same nature.	The whole, except such parts as relate to interest.

[a] Ss. 50, 50A and 50B substituted for s. 50 by Act XV of 1875, s. 3.

[b] In s. 50 read now '48.'

[c] S. 52 was added by Act XII of 1878, s. 8.

[d] So much of Act IV of 1872 as related to Regulations V of 1817 and XX of 1825 was repealed by Acts VI of 1878, s. 2 and Sch., and X of 1882, s. 2 and Sch. I (*b*), respectively; the references to these Regulations in this Schedule have therefore been omitted.

[e] So much of Act IV of 1872 as relates to Regulations I of 1798 and XVII of 1806 will be repealed when Act IV of 1882 is extended to the Punjab—see ss. 1, 2 and Sch., (*b*), *ib.*

SCHEDULE I—(*concluded*).

ENACTMENTS DECLARED TO BE IN FORCE—(concluded).

Number and year.	Title.	Extent to which the enactment is in force.
Reg. X of 1804 .	A Regulation for declaring the Powers of the Governor General in Council to provide for the immediate Punishment of certain Offences against the State by the sentence of Courts-Martial.	The whole, so far as it is not modified by Act V of 1841.
[a]Reg. XVII of 1806 .	A Regulation for extending to the Province of Benares the Rates of Interest on future Loans, and Provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I, 1798, and XXXIV, 1803, for the redemption of Mortgages and Conditional Sales of Land, under Deeds of Bai-bil-wafa, Kat-kabála or other similar designation.	Sections 7 and 8.
Reg. III of 1818 .	A Regulation for the Confinement of State-prisoners.	The whole.
Reg. XI of 1825 .	A Regulation for declaring the rules to be observed in determining Claims to Lands gained by alluvion, or by dereliction of a river or the sea.	The whole.
Act XL of 1858 .	An Act for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.	The whole.
Act XVII of 1861 .	An Act to amend Act XIV of 1843 (for regulating the Customs-duties in the North-Western Provinces).	The whole, the word "Punjab" being substituted for the words "North-Western Provinces."
	"Rules for the conservancy of Forests and Jungles in the Hill Districts of the Punjab Territories, sanctioned by the Governor General in Council, in letter of the Secretary to the Government of India, No. 1789, 21st May, 1855."	The whole.

[a] See last footnote on preceding page.
[b] Act XVII of 1861 was repealed by Act VIII of 1875, s. 2 and Sch.

SCHEDULE II.

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
	All Bengal Regulations now in force in the Punjab, except those specified in Schedule I.	The whole.
	All rules, laws and regulations made for the Punjab and its Dependencies, or for any part thereof, by the Governor General of India, or the Governor General of India in Council, or the Lieutenant-Governor of the Punjab otherwise than at Meetings for making Laws and Regulations in conformity with the provisions of the Acts of the 3rd and 4th years of King William the Fourth, Chapter 85, and of the 16th and 17th years of Her Majesty, Chapter 95, or other Act in force for the time being, except those specified in Schedule I.	The whole.
Act VI of 1846 . .	An Act for the more convenient administration of the government of the country called the Bhattí Territory.	The whole.
Act I of 1847 .. .	An Act for the establishment and maintenance of Boundary-marks in the North-Western Provinces of Bengal.	The whole, so far as it affects the Punjab.
Act III of 1870 . .	An Act to remove the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes.	The whole, so far as it is unrepealed.

THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title. Local extent.

SECTIONS.

2. [*Rep. by Act XII of 1873, s. 1 and Sch., Pt. II.*]
3. Interpretation-clause.
4. Power to appoint officers.

PART II.

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

5. Notification to issue when water-supply is to be applied for public purposes.
6. Powers of Canal-officer.
7. Notice as to claims for compensation.
8. Damage for which compensation shall not be awarded; matters in respect of which compensation may be awarded.
9. Limitation of claims.
10. Enquiry into claims and amount of compensation.
11. Abatement of rent on interruption of water-supply.
12. Enhancement of rent on restoration of water-supply.
13. Compensation when due. Interest.

PART III.

OF THE CONSTRUCTION AND MAINTENANCE OF WORKS.

14. Power to enter and survey, &c. Power to clear land. Power to inspect and regulate water-supply. Notice of intended entry into houses. Compensation for damage caused by entry.
15. Power to enter for repairs and to prevent accidents. Compensation for damage to land.
16. Application by persons desiring to use canal-water. Contents of application. Liability of applicants for cost of works. Recovery of amount due.
17. Government to provide means of crossing canals.
18. Persons using water-course to construct works for passing water across roads, &c. If they fail, Canal-officer may construct, and recover cost.
19. Adjustment of claims between persons jointly using water-course. Recovery of amount found due.
20. Supply of water through intervening water-course.
21. Application for construction of new water-course.
22. Procedure of Canal-officer thereupon.
23. Application for transfer of existing water-course. Procedure thereupon.
24. Objections to construction or transfer applied for.
25. When applicant may be placed in occupation.
26. Procedure when objection is held valid.
27. Procedure when Canal-officer disagrees with Collector.
28. Expenses to be paid by applicant before receiving occupation. Procedure in fixing compensation. Recovery of compensation and expenses.
29. Conditions binding on applicant placed in occupation.
30. Procedure applicable to occupation for extensions and alterations.

PART IV.

Of the Supply of Water.

Sections.

31. In absence of written contract, water-supply to be subject to rules.
32. Conditions as to power to stop water-supply; claims to compensation in case of failure or stoppage of supply; claims on account of interruption from other causes; duration of supply; sale or sub-letting of right to use canal-water; transfer, with land, of contracts for water. No right acquired by user.

PART V.

Of Water-rates.

33. Liability when person using unauthorizedly cannot be identified.
34. Liability when water runs to waste.
35. Charges recoverable in addition to penalties. Decision of questions under sections 33 and 34.
36. Charge on occupier for water, how determined. 'Occupier's rate.'
37. 'Owner's rate.'
38. Amount of owner's rate.
39. Owner's rate when not chargeable.
40. When occupier is to pay both owner's rate and occupier's rate.
41. Power to make rules for apportioning owner's rate.
42. When owner is to pay owner's rate.
43. Effect of introduction of canal-irrigation on landlord's right to enhance.
44. Water-rate by whom payable, when charged on land held by several owners.

Recovery of Charges.

45. Certified dues recoverable as land-revenue.
46. Power to contract for collection of canal-dues.
47. Lambardárs may be required to collect canal-dues.
48. Fines excluded from sections 45, 46, 47.

PART VI.

Of Canal-navigation.

49. Detainer of vessels violating rules. Liability of owners of vessels causing damage.
50. Recovery of fines for offences in navigating canals.
51. Power to seize and detain vessel on failure to pay charges.
52. Power to seize cargo or goods, if charges due thereon are not paid.
53. Procedure for recovery of such charges after seizure.
54. Procedure in respect of vessels abandoned and goods unclaimed. Disposal of proceeds of sale.

PART VII.

Of Drainage.

SECTIONS.

55 Power to prohibit obstructions or order their removal.
56. Power to remove obstructions after prohibition.
57. Preparation of schemes for works of improvement.
58. Powers of persons employed on such schemes.
59. Rate on lands benefited by works.
60. Recovery of rate.
61. Disposal of claims to compensation.
62. Limitation of such claims.

PART VIII.

Of obtaining Labour for Canals and Drainage-works.

63. Definition of "labourer."
64. Power to prescribe number of labourers to be supplied by persons benefited by canal.
65. Procedure for obtaining labour for works urgently required.
66. Liability of labourers under requisition.

PART IX.

Of Jurisdiction.

67. Jurisdiction under this Act of Civil Courts.
68. Settlement of differences as to mutual rights and liabilities of persons interested in water-course.
69. Power to summon and examine witnesses.

PART X.

Of Offences and Penalties.

70. Offences under Act. Penalty.
71. Saving of prosecution under other laws.
72. Compensation to person injured.
73. Power to arrest without warrant.
74. Definition of "canal."

PART XI.

Of Subsidiary Rules.

75. Power to make, alter and cancel rules. Publication of rules.

SCHEDULE.

[*Rep. by Act XII of 1873, s 1 and Sch., Pt. II.*]

ACT No. VIII OF 1873.

Received the Governor General's assent on the 11th February, 1873.

An Act to regulate Irrigation, Navigation and Drainage in Northern India.

WHEREAS, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to irrigation, navigation and drainage in the said territories; It is hereby enacted as follows :— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Northern India Canal and Drainage Act, 1873: Short title.

It extends to the territories for the time being respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands, whether permanently settled, temporarily settled, or free from revenue.[a] Local extent.

2. [*Rep. by Act XII of 1873, s. 1 and Sch., Pt. II.*] Repeal of Acts.

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

(1) "canal" includes— "Canal."

(*a*) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all water-courses as defined in the second clause of this section;

(*d*) any part of a river, stream, lake or natural collection of water or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act:

(2) "water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel: "Water-course."

[a] In s. 1, the words referring to the commencement of the Act were repealed by Act XVI of 1874, s. 1 and Sch., Pt. I.

"Drainage-work."

(3) "drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns:

"Vessel."

(4) "vessel" includes boats, rafts, timber and other floating bodies;

"Commissioner."

(5) "Commissioner" means a Commissioner of a division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner:

"Collector."

(6) "Collector" means the head revenue-officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector:

"Canal-officer."

(7) "Canal-officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof:

"Superintending Canal-officer."

"Superintending Canal-officer" means an officer exercising general control over a canal or portion of a canal:

"Divisional Canal-officer."

"Divisional Canal-officer" means an officer exercising control over a division of a canal:

"Subdivisional Canal-officer."

"Subdivisional Canal-officer" means an officer exercising control over a subdivision of a canal:

"District."

(8) "district" means a district as fixed for revenue-purposes.

Power to appoint officers.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section 3, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

PART II.

Of the Application of Water for Public Purposes.

Notification to issue when water-supply is to be applied for public purposes.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work, the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of Canal-officer.

6. At any time after the day so named, any Canal-officer, acting under the orders of the Local Government in this behalf, may enter on any land

BENGAL SECRETARIAT LIBRARY

and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to claims for compensation.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 8 may be made before him.

Damage for which compensation shall not be awarded.

8. No compensation shall be awarded for any damage caused by—

(*a*) stoppage or diminution of percolation or floods;

(*b*) deterioration of climate or soil;

(*c*) stoppage of navigation, or of the means of drifting timber or watering cattle;

(*d*) displacement of labour.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters:—

(*e*) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification:

(*f*) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification:

(*g*) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification:

(*h*) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1877, Part IV: XV of 1877.

(*i*) any other substantial damage, not falling under any of the above clauses (*a*), (*b*), (*c*) or (*d*), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (*e*), (*f*) or (*g*) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1877, Part IV;

and no right to any of the advantages referred to in clauses (*a*), (*b*) and (*c*) of this section shall be acquired, as against the Government, under the same Part.

Limitation of claims.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claims and amount of compensation.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections 9 to 12 (inclusive), 14 and 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51, 57, 58 and 59 of the Land-acquisition Act, 1870, X of 1870. shall apply to such enquiries:

Provided that, instead of the last clause of the said section 26, the following shall be read:—"The provisions of this section and of section 8 of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor VIII of 1873. in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Abatement of rent on interruption of water-supply.

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section 8, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement of rent on restoration of water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation when due.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

Interest.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

PART III.—Of the Construction and Maintenance of Works.

Power to enter and survey, &c.

14. Any Canal-officer, or other person acting under the general or special order of a Canal-officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal-officer:

Power to clear land.

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water-supply.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal:

Notice of intended entry into houses.

Provided that, if such Canal-officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

In every case of entry under this section, the Canal-officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and, in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Power to enter for repairs and to prevent accidents.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal-officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage to land.

In every such case, such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section 43 of the Land-acquisition Act, 1870.

Application by persons desiring to use canal-water.

16. Any persons desiring to use the water of any canal may apply in writing to the Divisional or Subdivisional Canal-officer of the division or subdivision of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Contents of application.

The application shall state the works to be undertaken, their approximate

estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

Liability of applicants for cost of works.

When the assent of the Superintending Canal-officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Recovery of amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal-officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

Government to provide means of crossing canals.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

Persons using water-course to construct works for passing water across road.

18. The Divisional Canal-officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

Such order shall specify a reasonable period within which such construction or repairs shall be completed;

If they fail, Canal-officer may construct,

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal-officer, he may, with the previous approval of the Superintending Canal-officer, himself construct or repair the same;

and recover cost.

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal-officer, the amount shall, on the demand of the Divisional Canal-officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

Adjustment of claims between persons jointly using water-course.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Subdivisional Canal-officer, on receiving

an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case, and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue. **Recovery of amount found due.**

20. Whenever application is made to a Divisional Canal-officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal-officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course. **Supply of water through intervening water-course.**

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal-officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal-officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal-officer, stating— **Application for construction of new water-course.**

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Canal-officer thereupon.

22. If the Divisional Canal-officer considers—

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 28;

and, upon such deposit being made, he shall cause enquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application for transfer of existing water-course.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself may apply in writing to the Divisional Canal-officer, stating—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for procuring such transfer;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Divisional Canal-officer considers—

(*a*) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 28 in respect of such transfer;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

Objections to construction or transfer applied for.

24. Within thirty days from the publication of a notice under section 22 or section 23, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to enquire into the validity of the objection, giving previous notice to the Divisional Canal-officer of the place and time at which such enquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal-officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

When applicant may be placed in occupation.

26. If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal-officer accordingly; and, if such officer sees fit, he may, in the case of an application under section 21, alter the boundaries of the land so marked out, and may give fresh notice under section 22; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

Procedure when objection is held valid.

27. If the Canal-officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section 28, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

Procedure when Canal-officer disagrees with Collector.

28. No such applicant shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Expenses to be paid by applicant before receiving occupation.

In determining the compensation to be made under this section the Collector shall proceed under the provisions of the Land-acquisition Act, 1870; but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

X of 1870.

Procedure in fixing compensation.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Recovery of compensation and expenses

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

Conditions binding on applicant placed in occupation.

First.—All works necessary for the passage, across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.

Second.—Land occupied for a water-course under the provisions of section 22 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional Canal-officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge—

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and, if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

Procedure applicable to occupation for extensions and alterations.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

PART IV.

Of the Supply of Water.

In absence of written contract, water-supply to be subject to rules.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

32. Such contracts and rules must be consistent with the following conditions:— Conditions as to—

(*a*) The Divisional Canal-officer may not stop the supply of water to any water-course, or to any person, except in the following cases:— power to stop water-supply;

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;

(3) within periods fixed from time to time by the Divisional Canal-officer:

(*b*) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal-officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government: claims to compensation in case of failure or stoppage of supply;

(*c*) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss: claims on account of interruption from other causes;

(*d*) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but, if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year: duration of supply;

(*e*) Unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use: sale or sub-letting of right to use canal-water.

Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant:

But all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place: transfer, with land, of contracts for water.

(*f*) No right to the use of the water of a canal shall be, or be deemed to No right ac-

quired by user.

have been, acquired under the Indian Limitation Act, 1877, Part IV, nor shall Government be bound to supply any person with water except in accordance with the terms of a contract in writing. XV of 1877.

PART V.

Of Water-rates.

Liability when person using unauthorizedly cannot be identified.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the person on whose land such water has flowed if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

Liability when water runs to waste.

34. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Charges recoverable in addition to penalties.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

Decision of questions under sections 33 and 34.

All questions under section 33 or section 34 shall be decided by the Divisional Canal-officer, subject to an appeal to the Head Revenue-officer of the district, or such other appeal as may be provided under section 75.

Charge on occupier for water, how determined.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

'Occupier's rate.'

A rate so charged shall be called the 'occupier's rate.'

'Owner's rate.'

37. In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

Amount of owner's rate.

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And, for the purpose of this section only, land

which is permanently settled or held free of revenue shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.[a]

40 to 43. *When occupier to pay both rates: apportionment of owner's rate: when owner to pay owner's rate: effect of introduction of canal-irrigation on landlord's right to enhance.* (*Rep. by Act XVI of 1887, s. 3 and Sch.*)

Water-rate by whom payable when charged on land held by several owners.

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Recovery of Charges.

Certified dues recoverable as land-revenue.

45. Any sum lawfully due under this Part, and certified by the Divisional Canal-officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

Power to contract for collection of canal-dues.

46. The Divisional Canal-officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section 45; and, if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

Lambardárs may be required to collect canal-dues.

47. The Collector may require the lambardár, or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate;

and for the purpose of collecting such sums from the subordinate zamíndárs, raiyats or tenants, such lambardár or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide—

(*a*) for remunerating persons collecting sums under this section; or

(*b*) for indemnifying them against expenses properly incurred by them in such collection; or

(*c*) for both such purposes.

Fines excluded from sections 45, 46, 47.

48. Nothing in sections 45, 46 or 47 applies to fines.

PART VI.

Of Canal-navigation.

Detainer of vessels violating rules.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal-officer, or by any other person duly authorized in this behalf.

Liability of owners of vessels causing damage.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Recovery of fines for offences in navigating canals.

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, 1882,[a] or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel. X of 1882.

Power to seize and detain vessel on failure to pay charges.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for recovery of such charges after seizure.

53. Within a reasonable time after any seizure under section 51 or section 52, the said Canal-officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be neces-

[a] See Act X of 1882, s. 3.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

Power to remove obstructions after prohibition.

56. The Divisional Canal-officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal-officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation of schemes for works of improvement.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of persons employed on such schemes.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal-officers by section 14.

Rate on lands benefited by works.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

(1) six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate:

(2) in the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or

by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person, as the case may be.

Recovery of rate.

60. Any such drainage-rate may be collected and recovered in manner provided by sections 45, 46 and 47 for the collection and recovery of water-rates.

Disposal of claims to compensation.

61. Whenever, in pursuance of a notification made under section 55, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section 57,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in section 10.

Limitation of such claims.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART VIII.

Of obtaining Labour for Canals and Drainage-works.

Definition of "labourer."

63. For the purposes referred to in this Part, the word "labourer" includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

Power to prescribe number of labourers to be supplied by persons benefited by canal.

64. In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector—

(*a*) to ascertain the proprietors, sub-proprietors or farmers whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(*b*) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

Procedure for obtaining labour for works urgently required.

65. Whenever it appears to a Divisional Canal-officer duly authorized by the Local Government that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be

obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seems necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state—

(*a*) the nature and locality of the work to be done;

(*b*) the number of labourers to be supplied by the person upon whom the requisition is made; and

(*c*) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal-officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers:

Provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work.

In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Liability of labourers under requisition.

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

PART IX.

Of Jurisdiction.

Jurisdiction under this Act of Civil Courts.

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal-officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such

notice, he will proceed to enquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

Power to summon and examine witnesses.

69. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on Civil Courts by the Code of Civil Procedure;* and every such enquiry shall be deemed a judicial proceeding.

XIV of 1882.

PART X.

Of Offences and Penalties.

Offences under Act.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say:—

(1) damages, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work;

(3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work;

(4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

(8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour;

---

* See Act XIV of 1882, s. 3.

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

Penalty.

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Saving of prosecution under other laws.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act:

Provided that no person shall be punished twice for the same offence.

Compensation to person injured.

72. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Power to arrest without warrant.

73. Any person in charge of or employed upon any canal or drainage-work may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences:—

(1) wilfully damages or obstructs any canal or drainage-work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work.

Definition of "canal."

74. In this Part the word "canal" shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands.

PART XI.

Of Subsidiary Rules.

Power to make, alter and cancel rules.

75. The Local Government may, from time to time with the previous sanction of the Governor General in Council, make rules to regulate the following matters:—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act,

and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made under this Act, shall be done;

(4) the amount of any charge made under this Act; and

(5) generally to carry out the provisions of this Act.

The Local Government may from time to time, with the like sanction, alter or cancel any rules so made.

Such rules, alterations and cancelments shall be published in the local official Gazette, and shall thereupon have the force of law. **Publication of rules.**

SCHEDULE.

[*Rep. by Act XII of 1873, s. 1 and Sch., Pt. II.*]

THE EUROPEAN BRITISH MINORS ACT, 1874.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title. Local extent. Personal application. Commencement.
2. Interpretation-clause.

PART II.

APPOINTMENT OF GUARDIANS.

3. Appointment by parent.
4. Appointment by Court.
5. Application for appointment. Stamp. Verification. Notice of application.
6. Production of minor.
7. Evidence of fitness.
8. Procedure. Forms. Subsidiary rules.
9. Orders under Act not to be contested.
10. Rules for guidance of Court in appointing guardian.

PART III.

GUARDIANS' DUTIES, RIGHTS AND LIABILITIES.

A.—Guardians of the Person.

11. Duties of guardian of the person.

A.—Guardians of the Person.

SECTIONS.
12. Ward's religion.
13. Guardian entitled to custody of ward.
14. Removal of ward from jurisdiction.

B.—Guardians of Property.

15. Duties of guardian of property. Prohibition of waste.
16. Power to lease.
17. Power to use principal for ward's maintenance, &c.
18. Rules as to guardians of property.

C.—As to all Guardians.

19. Minor guardians incompetent to act.
20. Guardian under control of Court.
21. Death of joint guardian.
22. Removal of guardian. Appointment of successor.
23. Resignation of guardian.
24. Application for appointment on guardian's removal or resignation.
25. Close of authority of guardian.

SCHEDULE.

ACT No. XIII OF 1

Received the Governor General's assent on the 8th December, 1874.

An Act to provide in the Punjab and elsewhere for the guardianship of European British Minors.

Preamble.

WHEREAS it is expedient to provide in the Punjab, Oudh, the Central Provinces, British Burma, Coorg, Ajmere and Merwára and Assam for the guardianship of minors who either are born in the United Kingdom or any British colony, or are the children or grandchildren of persons so born; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the European British Minors Act, 1874:

Local extent.

It extends to the territories respectively subject to the government of the Lieutenant-Governor of the Punjab and to the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, Ajmere and Merwára and Assam;

Personal application.

So far as relates to minors, it applies only to persons born in the United Kingdom of Great Britain and Ireland, or any British colony, plantation or settlement other than British India, and to their children and grandchildren;

Commencement.

And it shall come into force at once.

2. In this Act— Interpretation-clause.

"minor" means a person who has not completed the age of eighteen years; "Minor."

"guardian" means a person who is appointed to take care of a minor's person or property, or both; and "Guardian."

"Court" means the highest Civil Court of appeal in any territory (other than British Burma) to which this Act extends. "Court."

In British Burma "Court" means, in the town of Rangoon, the Court of the Recorder of Rangoon, and, elsewhere, the Court of the Deputy Commissioner.

PART II.

Appointment of Guardians.

3. A guardian of the person or property, or both, of any minor may be appointed by will or other instrument to take effect upon the death of the parent appointing— Appointment by parent.

(*a*) if the minor is legitimate, by the father, or by either parent if the other is dead or incapable of acting;

(*b*) if the minor is illegitimate, by the mother.

4. If the Court within the local limits of whose jurisdiction any minor resides finds that the guardianship of his person or property has not been sufficiently provided for under section 3, the Court may appoint a guardian of his person or property, or both, as the case may be. Appointment by Court.

If the minor has several properties, the Court may, if it think fit, appoint a guardian for each such property.

If the Court appoints a guardian for any property situate beyond the local limits of its jurisdiction, the Court within the local limits of whose jurisdiction such property may be situate shall accept such guardian as duly appointed and give effect to the order appointing him.

5. Whoever desires to be appointed the guardian of a minor's person or property, or both, may apply to the Court within the local limits of whose jurisdiction the minor resides by petition setting forth the grounds of his application, and showing— Application for appointment.

(*a*) the minor's age and residence;

(*b*) the nature and amount of his property;

(*c*) what relatives he has in India or elsewhere, and

(*d*) the qualifications of the proposed guardian and his willingness to act as such.

The petition shall bear a stamp of five rupees, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence. Stamp. Verification.

Notice of application.

The Court, if satisfied that there is ground for proceeding, shall give notice of the application to the person (if any) named in the petition as having the custody or being in possession of the person or property of such minor, as well as to any other person whom the Court may think should receive such notice, and shall fix as early a day as may be convenient for the hearing of the petition.

Production of minor.

6. The Court may direct that the person (if any) having the custody of such minor shall produce him at such place and time as may be appointed by the Court, and may make such order for the temporary custody and protection of the minor's person or property as may appear proper.

Evidence of fitness.

7. On the day fixed for the hearing of the petition, or as soon after as may be practicable, the petitioner shall adduce evidence to show the fitness of the proposed guardian;

and the Court shall make such order as it thinks fit in respect to the guardianship of the minor's person or property, or both, and the costs of the case.

Procedure.

8. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in the Code of Civil Procedure[a] in so far as the same is applicable; and any order made by the Court under section 6 or section 7 may be enforced as if such order had been made in a regular suit or on appeal; and all orders made under this Act by Deputy Commissioners in British Burma shall be appealable as if they were decrees. XIV of 1882

Forms.

The forms set forth in the schedule hereto annexed, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

Subsidiary rules.

And the Court may from time to time prescribe rules consistent with this Act for regulating the procedure hereunder:

Provided that, in the case of Courts of Deputy Commissioners in British Burma, such rules shall be prescribed by the Judicial Commissioner.

Orders under Act not to be contested.

9. Save as provided by section 8, no order passed under this Act in respect to the guardianship of a minor's person or property shall be liable to be contested in any other proceeding.

Rules for guidance of Court in appointing guardian.

10. In appointing the guardian of a minor the Court shall be guided by the following considerations:—

(*a*) by what appears to be for the best interest of the minor in respect to his temporal and his mental and moral welfare; and if the minor is old enough to form an intelligent preference the Court may consider that preference:

(*b*) as between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but if, other things being equal, the minor is of tender years, he should be given to the

---

a See Act XIV of 1882, s. 3.

mother: if he is of an age to require education and preparation for labour and business, then to the father:

(*c*) the Court shall also consider the following circumstances according as they may bear upon the guardianship of person or of property:—

(1) nearness of relationship;

(2) the wishes of a deceased parent;

(3) any existing or previous connection of the proposed guardian with the minor's person or property.

PART III.

GUARDIANS' DUTIES, RIGHTS AND LIABILITIES.

A.—Guardians of the Person.

11. A guardian of the person is charged with the custody of the ward, and must look to his support, health and education. Duties of guardian of the person.

12. A ward is presumed to be of his father's religion: and the guardian, in the absence of the Court's direction to the contrary, must train the ward in such religion. If the ward is old enough to form an intelligent preference for any religion, the Court, in giving such direction, shall attend to such preference. Ward's religion.

13. Any ward who may desert his home may be compelled by order of the Court to return. But such order may be withheld by the Court, if it appear— Guardian entitled to custody of ward.

(*a*) that the ward has been subjected to maltreatment at the hands of his guardian;

(*b*) that the conduct of the guardian in other respects renders him unfit for the office; or

(*c*) that the ward is on reasonable grounds unwilling to return and is old enough to form an intelligent preference on such a subject.

14. No guardian of the person appointed by the Court shall, without the leave of the Court, remove its ward from the limits of its jurisdiction. Removal of ward from jurisdiction.

Any person wilfully contravening this prohibition shall be liable by order of the Court to fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

B.—Guardians of Property.

15. A guardian of the property shall keep safely the property of his ward. Duties of guardian of property.

In the case of immoveable property he shall not suffer any waste, but shall maintain the buildings (if any) thereon and their appurtenances out of the rents and profits of the property. Prohibition of waste.

16. The guardian of any immoveable property may make leases for any term not exceeding a year, or from year to year, of such property or any part thereof; and, with the sanction of the Court, may make such lease of the pro- Power to lease.

perty, or any part thereof, for such term of years and subject to such rents and covenants as the Court may direct; but in no such case shall any fine or premium be taken.

The lease shall be settled by an officer of the Court, and a counterpart thereof shall be executed by the lessee, and shall be deposited for safe custody in the Court until the ward completes the age of eighteen years; but all proper parties shall have the use thereof, if necessary, for the purpose of enforcing any covenant therein contained.

Power to use principal for ward's maintenance, &c.

17. The Court may order that the principal of the ward's property, or any part thereof, shall be applied for his maintenance, education or advancement, and the guardian of such property shall obey such order.

Rules as to guardians of property.

18. Every guardian of the property of a minor shall—

(*a*) give such security, if any, as the Court thinks fit, duly to account for what he shall receive in respect of the minor's property;

(*b*) pass his accounts at such periods and in such form as the Court directs;

(*c*) pay the balance due from him thereon;

(*d*) be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties;

(*e*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

C.—As to all Guardians.

Minor guardians incompetent to act.

19. No person appointed a guardian shall be competent to act as such unless he has completed the age of eighteen years.

Guardian under control of Court.

20. Every guardian, whether appointed by a parent or under this Act by a Court, is subject to the control of the Court within the local limits of whose jurisdiction he resides.

Death of joint guardian.

21. On the death of one of two or more joint guardians, whether appointed by a parent or under this Act, the power continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

22. A guardian may be removed by the Court for any of the following causes:—

(*a*) for abuse of his trust;

(*b*) for continued failure to perform its duties;

(*c*) for incapacity to perform its duties;

(*d*) for gross immorality;

(*e*) for having an interest adverse to the faithful performance of his duties;

(*f*) for removal from the local limits of the jurisdiction of the Court;

(*g*) the arrival within such local limits of some person whose guardianship the Court may think likely to be more beneficial to the minor than the guardianship of the person so removed;

(*h*) in the case of a guardian of the property, for insolvency.

In any such case the Court may appoint a successor to the guardian so removed. **Appointment of successor.**

23. Any guardian, whether appointed by a parent or by the Court, desiring to resign his office, may apply to the Court to discharge him, **Resignation of guardian.**

and, if the Court finds that there is some other proper person whom it may appoint to such guardianship, it shall discharge the guardian accordingly and appoint such other proper person in his place.

24. Applications for appointments under section 22 or section 23 shall be made in manner provided in section 5; and the procedure thereon shall be in accordance with section 7. **Application for appointment on guardian's removal or resignation.**

25. The power of a guardian of the person ceases— **Close of authority of guardian.**

(*a*) by his removal or discharge;
(*b*) by the ward's attaining majority, and,
(*c*) in the case of a female ward, by her marriage followed by cohabitation.

The power of a guardian of the property ceases—

(*a*) by his removal or discharge;
(*b*) by the ward's attaining majority.

SCHEDULE.

I.—Petition for Appointment of Guardian.

(*See section* 5.)

In the Chief Court of the Punjab [*or* In the Court of the Recorder of Rangoon, *or as the case may be*].

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

To Mr. Justice (*or as the case may be*).

The petition of *C. D.* of .

Sheweth—

1. The said *A. B.* is now of the age of years and upwards. He is the same person as "*A.*, son of *C.* and *L. B.*," named in the paper-writing now produced and shown to me and marked A, and purporting to be a copy under the seal of the General Register Office of the entry No. in the certified copy of entries of births in the district of *D.* in the county of *L.*, for the year 18 .

2. The said *A. B.* is absolutely entitled, under the will of *his maternal uncle E. F.*, late of (*residence and addition*), to the following properties (namely):—

(*a*) a house in let to *N. O.* as yearly tenant at Rs. 1,000 a year.

(*b*) Rs. 20,000 in the four per cent. securities of the Government of India, standing in the names of *R. S.* and *T. W.*, the trustees of the will of the said *E. F.*

(*c*) Rs. 800 cash in the hands of the said *R. S.* and *T. W.*, arisen from dividends on the said stock.

3. The only relations of the said *A. B.* now living are (*a*) your petitioner, his maternal uncle; (*b*) *S. H.*, wife of *T. H.* of (*residence and addition*), the half-sister of the said *A. B.*; and (*c*) *R. D. V.*, the half-brother of the said *A. B.*, who is a Captain in Her Majesty's Army, and now stationed at Bombay.

4. The said *A. B.* was, at the time of the death of his father, *C. B.*, which happened on the 18 , and is now, residing as a scholar at Bishop Cotton's School, Simla, in the custody of the Rev. *M. N.*, the headmaster.

5. Your petitioner [*here state his qualifications as guardian, e.g., that he has attained his majority, is married, has children, resides with his family at some reasonably healthy place, mentioning it, holds a responsible office, stating it*], and is willing to act as the guardian of the person and property [*or as may be*] of the said *A. B.* during his minority in case this Hon'ble Court shall think fit to appoint me to that office.

Your petitioner therefore prays this Hon'ble Court—

1. That your petitioner or some other proper person may, upon giving security, be appointed the guardian of the person and property of the said *A. B.* during his minority, or until further order.

2. And that the said *C. D.* or other such guardian may from time to time pass his accounts and pay the balances which shall be certified to be due from him into the Government treasury to the credit of this matter, and that such balances may be laid out in securities of the Government of India, or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of railways guaranteed by the Government of India, and the interest to accrue thereon and all accumulations of interest be laid out in like manner.

3. And that the costs of this petition may be taxed as between attorney and client; and that the said *C. D.* or other such guardian may retain and pay the same out of any moneys of the said minor which may come to his hands and be allowed the same on passing his said accounts.

(*Signed*) *C. D.*

Form of Verification.

(*See section 5.*)

I, *C. D.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

II.—Affidavit of Fitness of Guardian.

(*See section 7.*)

In the Chief Court, &c., (*or as the case may be*).

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

I, *E. F.*, of (*residence and addition*), make oath and say as follows :—

1. I know and have for years past been well acquainted with *C. D.*, the petitioner in this matter.

2. The said *C. D.* is married and has children, namely, a son of the age of years and daughters of the respective ages of and years.

3. The said *C. D.* resides with his wife and children at

4. In my judgment and belief the said *C. D.* is a fit and proper person to be appointed guardian of the person and property of his nephew, the said minor *A. B.*, for the following reasons (*state them*) :—

Sworn at , this day of 18 , before me

E. F.

(*Official character and description of E. F.*)

III.—Recognizance by a Guardian of Property and his Surety, after an Order appointing him subject to his giving Security.

Stamp as in case of a bond.

(*Short title.*)

The senior Judge of the Chief Court of the Punjab [*or as the case may be*] has approved of and allowed this recognizance.

X. Y., *Registrar.*

C. D. (*the principal*), of (*residence and addition*), and *L. M.* (*the surety*) acknowledge themselves and each of them acknowledges himself to owe to the Secretary of State for India in Council the sum of Rs. [*to be regulated by the sum which the guardian is likely to receive during the currency of his periodical account*], to be paid to the said Secretary of State for India in Council; and, unless they pay the same, they, the said *C. D.* and *L. M.*, do, and each of them doth grant for himself, his executors and administrators, that the said sum shall be levied and received from them and each of them and from their and his moveable and immoveable property.

Dated the day of 18 .

WHEREAS, by an order of the Court of , made by (*name the Judge*),

in a certain matter there depending, intituled "In the matter of " [*recite the order appointing the guardian, subject to his giving security, and continue thus*] :—

And whereas (*name the Judge who has approved of the surety and recognizance*) has approved of the above-bounden *L. M.* as surety for the said *C. D.*, and hath also approved of the above-written recognizance with the underwritten condition as a proper security to be entered into by the said *C. D.* and *L. M.* pursuant to the said order, and in testimony of the said approbation, the Registrar [*or as the case may be*] of the said Court hath signed an allowance in the margin thereof.

Now the condition of the above-written recognizance is such, that if the said *C. D.* shall duly account for every sum of money which he shall receive on account of the property of the said minor *A. B.* and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court or Judge hath directed, or shall hereafter direct, then the above recognizance shall be void, otherwise the same shall remain in force.

C. D. } Taken and acknowledged by the above-named *C. D.* and *L. M.*,
L. M. } at in this day of 18 before me

(*Signature and style of office of the officer by whom the recognizance is taken*).

Received the Governor General's assent on the 15th July, 1875.

An Act to amend the Punjab Laws Act, 1872.

Preamble.

WHEREAS, in order to provide for the establishment of rural police and for the more efficient administration of law in the Punjab, it is expedient to amend the Punjab Laws Act, 1872; It is hereby enacted as follows:— IV of 1872.

Short title.

1. This Act may be called the Punjab Laws Amendment Act, 1875:

Local extent.

It extends to the territories for the time being under the government of the Lieutenant-Governor of the Punjab;

Commencement.

And it shall come into force at once.

Addition to Act IV of 1872.

2. The said Punjab Laws Act, 1872, shall be read as if the following sections were inserted next after section 39 thereof:—

39A—39G. [*Vide supra, pp. 73-75.*]

Substitution of new section for section 50.

3. Section 50 of the said Punjab Laws Act is repealed, and in lieu thereof there shall be read the following:—

[*Vide supra, p. 77.*]

ACT No. VII OF 1876.

Received the Governor General's assent on the 21st March, 1876.

An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal and to amend the same Act.

WHEREAS it is expedient to extend Act No. XXVII of 1871 (*for the Registration of Criminal Tribes and Eunuchs*) to the Lower Provinces of Bengal and to amend the same Act in manner hereinafter appearing; It is hereby enacted as follows:— Preamble.

1. Section 1 of the said Act shall be read as if, after the words "Lieutenant-Governors of," the following word were inserted (namely), "Bengal." Amendment of section 1, Act XXVII of 1871.

2. Section 18 of the said Act shall be read as if in the second clause, after the words "persons reside," the following words were inserted (namely), "or the agents of such landowners or occupiers." Amendment of section 18.

Section 21 of the said Act shall be read as if in the first clause, after the words "persons reside," the following words were inserted (namely), "or of the agent of any such owner or occupier," Amendment of section 21.

and as if in the fourth clause, after the words "occupier of land," the following words were inserted (namely), "or of the agent of such owner or occupier."

And section 22 of the same Act shall be read as if, after the words "occupier of land," the following words were inserted (namely), "or the agent of such owner or occupier." Amendment of section 22.

Received the Governor General's assent on the 28th March, 1877.

An Act to revive and amend Act No. XXIII of 1867.

WHEREAS Act No. XXIII of 1867 (*for the suppression of murderous outrages in certain districts of the Punjab*) received the assent of the Governor General on the 18th day of March, 1867, and by section 17 of the said Act was limited to expire in ten years from the date of passing it; Preamble.

And whereas it is expedient to revive the same Act and to amend it in manner hereinafter appearing;

It is hereby enacted as follows:-

1. The said Act shall be revived and shall remain in force until the Governor General in Council otherwise directs. Act XXIII of 1867 to be revived.

2. For the word "Commissioner" wherever it occurs in the said Act, the words "Sessions Judge or Commissioner" shall be substituted. Amendment of Act XXIII of 1867.

[a]ACT No. XVII OF 1877.

Received the Governor General's assent on the 17th October, 1877.

An Act to consolidate and amend the law relating to Courts in the Punjab.

Limitation of appeals.

18. In the Indian Limitation Act, 1877, Schedule II, Nos. 151 and 162, after the word "Bombay," the following words shall be inserted (namely): "or the Chief Court of the Punjab." XV of 1877.

Received the Governor General's assent on the 28th March, 1878.

An Act for the further amendment of the Punjab Laws Act, 1872.

Preamble.

FOR the purpose of further amending the Punjab Laws Act, 1872; It is hereby enacted as follows:— IV of 1872.

Substitution of new section for section 5, Act IV of 1872.

1. For section 5 of the said Act the following shall be substituted (namely):—

[*Vide supra, p. 66.*]

Substitution of new sections for sections 9 to 18.

2. For sections 9 to 18 (both inclusive) of the same Act the following shall be substituted:—

[*Vide supra, pp. 67-69.*]

Substitution of new section for section 35.

3. For section 35 of the same Act the following shall be substituted (namely):—

[*Vide supra, p. 71.*]

Amendment of section 38.

4. To section 38 of the same Act the following clause shall be added (namely):—

[*Vide supra, p. 72.*]

Amendment of section 40.

5. To section 40 of the same Act shall be added the words "and may withdraw any powers so conferred."

Amendment of sections 43, 44 and 47.

6. In sections 43, 44 and 47 of the same Act the words "with the consent and" shall be omitted.

Penalty for breach of rules under Act IV of 1872.

7. Whoever breaks any rule made by the Local Government under the same Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to fifty rupees, or with both. All penalties inflicted since the fifteenth day of July, 1875, which might have

[a] The rest of Act XVII of 1877 was repealed by Act XVIII of 1884, s. 2 and Sch., see *infra*, pp. 244 and 256. As to validation of certain decisions made in suits of the nature specified in s. 49 of Act XVII of 1877, see Act XIV of 1884, s. 2, *infra*, p. 240, and for saving of appointments, rules and forms, notifications, powers and orders under the same Act, see Act XVIII of 1884, s. 73, *infra*, p. 255.

been inflicted if this section had been in force, shall be deemed to have been inflicted in accordance with law.

8. To the same Act the following section shall be added:— *Recovery of advances made by Government.*

52. [*Rep. by Act X of 1879, s. 2.*]

THE NORTHERN INDIA FERRIES ACT, 1878.

CONTENTS

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.

1. Short title. Local extent. Commencement.
2. Repeal.
3. Interpretation-clause.

II.—PUBLIC FERRIES.

4. Power to declare, establish, define and discontinue public ferries.
5. Claims for compensation.
6. Superintendence of public ferries.
7. Management may be vested in municipality, and proceeds paid into municipal fund.
7A. Management of ferries may be vested in committees and boards.
8. Letting ferry-tolls by auction.
9. Recovery of arrears from lessee.
10. Power to cancel lease.
11. Surrender of lease.
12. Power to make rules.
13. Private ferry not to ply within two miles of public ferry without sanction.
14. Person using approaches, &c., liable to pay toll.
15. Tolls.
16. Table of tolls. List of tolls.
17. Tolls, rents, compensation and fines how disposed of.
18. Compounding for tolls.

III.—PRIVATE FERRIES.

19. Power to make rules.
20. Tolls.

IV.—PENALTIES AND CRIMINAL PROCEDURE.

SECTIONS.

21. Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.
22. Penalty for taking unauthorized toll, and for causing delay.
23. Penalty for breach of rules made under sections 12 and 19.
24. Cancelment of lease on default or breach of rules.
25. Penalties on passengers offending.
26. Penalty for maintaining private ferry within prohibited limits.
27. Fines payable to lessee.
28. Penalty for rash navigation and stacking of timber.
29. Power to arrest without warrant.
30. Power to try summarily.
31. Magistrate may assess damage done by offender.

V.—MISCELLANEOUS.

32. Power to take possession of boats, &c., on surrender or cancellation of lease.
33. Similar power in cases of emergency.
34. Jurisdiction of Civil Courts barred.
35. Delegation of powers.
36. Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.

ACT No. XVII OF 1878.

Received the Governor General's assent on the 9th November, 1878.

An Act to regulate Ferries in Northern India.

Preamble. WHEREAS it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh, the Central Provinces, Assam and Ajmere and Merwára; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. 1. This Act may be called the Northern India Ferries Act, 1878:

Local extent. It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmere and Merwára.

[a]It shall come into force in each of the said territories on such date as the Local Government may, by notification in the official Gazette, fix in this behalf. Commencement.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under that Regulation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act. Repeal.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry. Interpretation-clause.

II.—Public Ferries.

4. The Local Government may from time to time— Power to declare, establish, define and discontinue public ferries.

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

(*b*) take possession of a private ferry and declare it to be a public ferry;

(*c*) establish new public ferries where, in its opinion, they are needed;

(*d*) define the limits of any public ferry;

(*e*) change the course of any public ferry; and

(*f*) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette:

Provided that, when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor General in Council, by notification in the *Gazette of India*, and not otherwise:

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4 shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government. Claims for compensation.

6. The immediate superintendence of every public ferry shall, except as Superintend-

[a] Act XVII of 1878 was brought into force in the Punjab on the 1st April, 1881, see Notification No. 1168, *Punjab Gazette*, 24th March, 1881, Part I, p. 139.

ence of public ferries.

provided in section 7 [a] and section 7A [a] be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Management may be vested in municipality; and proceeds paid into municipal fund.

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

Management of ferries may be vested in committees and boards.

[b]7A. The Local Government may direct that any public ferry, wholly or partly within the area subject to the authority of a district board or local board in any district in the territories under the administration of the Lieutenant-Governor of the Punjab, shall be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund; and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

Letting ferry-tolls by auction.

[c]8. The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years with the approval of the Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 or section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Recovery of arrears from lessee

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

Power to cancel lease.

10. The Local Government may cancel the lease of the tolls of any public

---

[a] These words in s. 6 were added by Act XX of 1883, s. 79.
[b] S. 7A added by Act XX of 1883, s 78.
[c] S. 8 substituted by Act III of 1886, s. 1.

ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

Power to make rules.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act—

(*a*) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries;

[1] (*b*) for regulating the time and manner at and in which, and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted;

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(*d*) generally to carry out the purposes of this Act;

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries;

(*f*) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and

(*g*) in cases in which the traffic is conveyed in boats, for regulating (1) the number and kinds of such boats and their dimensions and equipment; (2) the number of the crew to be kept by the lessee for each boat; (3) the maintenance of such boats continually in good condition; (4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

[1] Clause (*b*) of s. 12 substituted by Act III of 1886, s. 1 (2).

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

Private ferry not to ply within two miles of public ferry without sanction.

13. [a]Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry :[a]

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats [b]which do not ply for hire, or[b] which the Local Government expressly exempts from the operation of this section.

Person using approaches, &c., liable to pay toll.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

Tolls.

15. Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service :

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the lease,[c] shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

Table of tolls.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry,

List of tolls.

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf.

Tolls, rents, compensation and fines how disposed of.

17. Except as provided by section 7 [d]and section 7A,[d] all tolls, rents and compensation received by or on behalf of Government, and all fines levied, under this Act shall be disposed of as follows, that is to say :—

(*a*) in the territories administered by the Lieutenant-Governor of the

---

[a-a] Para. 1 of s. 13 substituted by Act III of 1886, s. 2 (*1*).
[b-b] These words in s. 13 were added by Act III of 1886, s. 2 (*2*).
[c] In s. 15 "lease" substituted for "auction" by Act III of 1886, s. 1.
[d-d] These words in s. 17 were added by Act XX of 1883, s. 79.

North-Western Provinces, the residue of such tolls, rents, compensation and fines, after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878;

III of 1878.

(*b*) in the territories administered by the Chief Commissioner of Oudh, the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act, 1878;

IV of 1878.

(*c*) in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of the Central Provinces, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then, at the discretion of the Local Government, to any of the purposes specified in the second clause of section 7 of the Punjab Local Rates Act, 1878,[a] or the second clause of section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be; and

V of 1878.

X of 1878.

(*d*) in the territories respectively administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmere and Merwára, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then to such local works and establishments likely to promote the public health, comfort or convenience as the Local Government, subject to the control of the Governor General in Council, may from time to time direct.

Compounding for tolls.

18. The Local Government may, if it thinks fit, from time to time fix rates at which any person may compound for the tolls payable for the use of a public ferry.

III.—Private Ferries.

Power to make rules.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

Tolls.

20. The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

IV.—Penalties and Criminal Procedure.

Penalty for breach of provisions as to table of

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

[a] Act V of 1878 has not been reprinted, see Preface, para. 8.

tolls, list of tolls and return of traffic.

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized toll, and for causing delay.

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 12 and 19.

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancelment of lease on default or breach of rules.

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections,

the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Penalties on passengers offending.

25. Every person crossing by any public ferry, or using the approach to, or landing-place thereof, who refuses to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat, or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

Penalty for maintaining private ferry within prohibited limits.

*26. Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend to five hundred rupees and with a further fine which may extend to one hundred

* S. 26 substituted by Act III of 1886, s. 2.

rupees for every day during which the ferry is maintained or worked in contravention of those provisions.

Fines payable to lessee.

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for rash navigation and stacking of timber.

28. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned.

Power to arrest without warrant.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28.

Power to try summarily.

X of 1882.

30. Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XXII of the Code of Criminal Procedure,[a] 1882, may try any offence against this Act in manner provided by that chapter.

Magistrate may assess damage done by offender.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or, when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of any thing found in or upon such vessel or raft.

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—Miscellaneous.

Power to take possession of boats, &c., on surrender or cancellation of lease.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar power in cases of emergency.

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the

[a] Chap. XXII of Act X of 1882 substituted for Chap. XVIII of Act X of 1872, see Act X of 1882, s. 3.

transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction of Civil Courts barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Delegation of powers.

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district, or to such other officer as it thinks fit, by name or by virtue of his office.

Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.

36. All matters determined, orders issued, acts done, penalties imposed and proceedings held in the territories administered by the Lieutenant-Governor of the Punjab after the repeal of Bengal Regulation VI of 1819 by the Punjab Laws Act, 1872, section 4, and before this Act comes into force in such territories shall, whenever such determinations, orders, acts, penalties or proceedings would have been lawful if the said Regulation had been in force, be deemed to have been respectively determined, issued, done, imposed and held in accordance with law. IV of 1872.

ACT No. XIV OF 1879.

Received the Governor General's assent on the 5th September, 1879.

An Act for the Regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

Preamble.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Hackney-carriage Act, 1879:

Commencement.

and it shall come into force at once;

Saving.

but nothing herein contained shall affect any power conferred by any law relating to municipalities, or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

"hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept or offered, or plies, for hire; and

"committee" means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment for the time being in force.

[a] 3. The Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmere and Coorg, may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively. Application of Act to municipalities.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits. Power of committees to make rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe, have the force of law: Confirmation and publication of rules.

Provided that the Local Government may, at any time, rescind any such rule. Power to rescind rules.

4. The Local Government of any of the said territories may from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it; and Power to make rules for cantonments.

the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned.

All rules made under this section, when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned: Power to extend operation of rules beyond limits of municipality or cantonment.

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

6. The rules to be made under section 3 or section 4 may, among other matters,— What rules under sections 3 and 4 may provide for.

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particu-

---

[a] Under s. 3, the Act has been applied to the following municipalities:—

Lahore and Meean Meer, Amritsar, Delhi, Rawalpindi, Jullundur, Mooltan, Peshawar and Siálkot.

lar description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of

8. The amount of any fees received and the amount of any expenses in-

curred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and, in any cantonment where there is a cantonment-fund, to such fund.

fees and payment of expenses.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit.

Power of Magistrate to decide disputes regarding fares.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

10. If, at the time any dispute mentioned in section 9 arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

In case of dispute, hirer may require driver to take him to Court.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

ACT No. XX OF 1879.

Received the Governor General's assent on the 14th November, 1879.

An Act to provide for the better prevention of Glanders and Farcy among Horses.

WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows:—

Preamble.

1. This Act may be called the Glanders and Farcy Act, 1879:

Short title.

It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council,[a] and the Lieutenant-Governor of Bengal;

Local extent.

and it shall come into force at once.

Commencement.

[a] The words "Governor of Bombay in Council" in s. 1 were repealed by Act XXIV of 1886, s. 1.

Interpretation-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"horse" includes also ponies, asses, mules and jennets:

"diseased" means affected with glanders or farcy.

Local Government may apply the Act.

*3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

Local Government to appoint Inspectors.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act, and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code. XLV of 1860.

Inspector's power to seize horse.

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

Power of entry and search given to Inspectors.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

Horse to be examined by Veterinary Surgeon.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

Horse to be destroyed if found diseased.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but, if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

Place where diseased horse has been to be disinfected, &c.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

---

* The Act and rules framed under it were extended to the whole of the Punjab, see Notification No. 657, *Punjab Gazette*, 22nd March, 1883, Part I, p. 106.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.

Notice to be given of diseased horse.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of police.

Prohibition against removal of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

Vexatious entries, searches and seizures.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for breaches under sections 9 and 11.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section 9, or who moves any horse in contravention of section 11, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Power to make rules.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

(*a*) for regulating entries and searches by Inspectors under this Act;

(*b*) for regulating the destruction of horses certified under section 8 to be diseased, and the disposal of the carcases of such horses;

(*c*) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(*d*) for regulating the grant of licenses under section 11, and the conditions on which such licenses shall be granted; and

(*e*) generally for carrying out the purposes of this Act.

*All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

---

* For rules under the Act, see Notification No. 3598, *Punjab Gazette*, 25th November, 1880, Pt. I, p. 401. These rules have been extended to the whole of the Punjab, see footnote on preceding page.

Validation of destruction of diseased horses previous to passing of this Act.

15. All diseased horses destroyed under the orders of the Governor General in Council or the Local Government in the districts of Ráwalpindí and Pesháwar previous to the passing of this Act shall be deemed to have been destroyed in accordance with law.

THE VACCINATION ACT, 1880.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title. Local extent.
2. Interpretation-clause.
3. Extension of Act to municipalities.
4. Extension to cantonments.
5. Power to withdraw local area from operation of Act.
6. Prohibition of inoculation. Inoculated persons not to enter local area subject to Act without certificate.
7. Vaccination-circles. Vaccinators; Superintendent of vaccination.
8. Private vaccinators.
9. Unprotected children to be vaccinated. Vaccinator to vaccinate children, or deliver certificates of postponement.
10. Inspection after vaccination.
11. Procedure when vaccination is successful.
12. Procedure when vaccination is unsuccessful.
13. Procedure when child is unfit for vaccination. Renewal of certificate of postponement.
14. Certificates of insusceptibility of successful vaccination.
15. What lymph to be used.
16. No fee to be charged except by private vaccinator. Proviso.
17. Duties of Superintendent of vaccination. Notice to parent or guardian neglecting to comply with Act.
18. Order by Magistrate when notice not complied with. Procedure when order not obeyed. Magistrates to be non-official Natives.
19. Power to make rules for municipalities.
20. Power to make rules for cantonments.
21. What rules under sections 19 and 20 may provide for.
22. Punishment of offences.
23. Municipal funds to receive fines and meet expenditure.

ACT No. XIII OF 1880.

Received the Governor General's assent on the 9th July, 1880.

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities and cantonments; It is hereby enacted as follows:— Preamble.

1. This Act may be called the Vaccination Act, 1880: and Short title.

[a] it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmere and Coorg as it may be extended to in manner hereinafter provided. Local extent.

2. In this Act, unless there is something repugnant in the subject or context,— Interpretation-clause.

(1) the expression "municipal commissioners" means a body of municipal commissioners or a municipal committee constituted under the provisions of any enactment for the time being in force: "municipal commissioners":

(2) "parent" means the father of a legitimate child and the mother of an illegitimate child: "parent":

(3) "guardian" includes any person who has accepted or assumed the care or custody of any child: "guardian":

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination: "unprotected child":

(5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter: "inoculation":

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination: "vaccination-circle":

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation; and includes a "Superintendent of vaccination": "vaccinator":

(8) "vaccination-season" means the period from time to time fixed by the "vaccination-season":

[a] Under s. 1 the Act has been applied to the municipalities of Amritsar and Simla, see Notifications Nos. 925 and 486, *Punjab Gazettes*, dated 18th December, 1884, and 6th October, 1887, Part. I, pp. 1227 and 548, respectively.

Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of Act to municipalities.

3. A majority in number of the persons present at a meeting of the municipal commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality; and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.

Extension to cantonments.

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.

Power to withdraw local area from operation of Act.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality, or, with the previous sanction of the Governor General in Council, any local area in a cantonment, from the operation of this Act.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter local area subject to Act without certificate.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles;

Vaccinators:

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Superintendent of vaccination.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the

expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Vaccinator to vaccinate children, or deliver certificates of postponement.

10. The parent or guardian of every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

Inspection after vaccination.

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

11. When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is successful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure when vaccination is unsuccessful.

13. A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator:

Procedure when child is unfit for vaccination.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed.

Renewal of certificates of postponement.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Certificates of insusceptibility of successful vaccination.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act:

What lymph to be used.

Provided that,—

1st, if animal-lymph is so prescribed and the parent or guardian of any

child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2nd, if in any local area in which animal-lymph is procurable, human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

No fee to be charged except by private vaccinator.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

Proviso.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Duties of Superintendent of vaccination.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen year if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the district, or such Magistrate as the Local Government or the Magistrate of the district may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22.

Magistrates to be non-official Natives.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities.

19. When this Act has been applied to any municipality or any part thereof, the municipal commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the

limits to which it applies. Such rules shall be made in the manner in which, under the law for the time being in force, the commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the Local Government and published in the official Gazette, have the force of law:

Provided that the Local Government may at any time rescind or modify any such rule.

Power to make rules for cantonments.

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such rules.

What rules under sections 19 and 20 may provide for.

21. The rules to be made for any local area under sections 19 or 20 may, among other matters, provide for—

(*a*) the division of such local area into circles for the performance of vaccination;

(*b*) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station;

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination;

(*d*) the authority with which their appointment, suspension and dismissal shall rest;

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles;

(*f*) the distinguishing mark or badge to be worn by them;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses,

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph:

(*k*) the fee to be paid for vaccination with animal-lymph under section 15;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(*n*) the assistance to be given by the municipal commissioners and municipal servants in the preparation of these registers, and in other matters; and

(*o*) the preparation of vaccination-reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say):—

(*a*) violates the provisions of section 6,

(*b*) neglects without just excuse to obey an order made under section 18,

(*c*) breaks any of the rules made under section 19 or 20, or

(*d*) neglects without just cause to obey an order made under section 18 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say):—

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees; and

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred under this Act in any municipality, shall respectively be credited to and paid from the municipal fund.

THE EXCISE ACT, 1881.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title. Local extent. Commencement.

SECTIONS.

2. Repeal of Act X of 1871.
3. Interpretation-clause.
4. Saving of Acts XVI of 1863 and III of 1880.

CHAPTER II.

PRODUCTION OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

5. Manufacture of spirit and liquor without license prohibited.
6. Power to establish distilleries for country spirit.
7. Duty on spirit.
8. Power to make rules as to distilleries and breweries licensed under section 5;
9. and for distilleries established under section 6.
10. Sanction to rules under sections 8 and 9.
11. Production of intoxicating drugs from hemp.

CHAPTER III.

SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

12. Spirit, fermented liquor and drugs not to be sold without license. Proviso.
13. Licenses how granted. Power to cancel license for cause specified therein.
14. Power to cancel license for other causes.
15. Surrender of retail license.
16. Power to farm fees. Farmer to grant licenses. List of licenses granted by farmer to be filed.
17. Farm may be cancelled.
18. Compensation to farmers in certain cases.
19. Recovery of arrears by farmers.
20. Power to regulate supply of tárí and intoxicating drugs to licensed vendors.

CHAPTER IV.

POSSESSION OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

21. Possession of spirit, &c. Proviso.
22. Possession of intoxicating drugs.

CHAPTER V.

Import of Spirit.

Sections.

23. Spirit and fermented liquor from foreign territory subject to duty.

CHAPTER VI.

Officers and their Powers.

24. Collectors may appoint excise-officers.
25. Recovery of arrears of fees.
26. Power of excise-officers to inspect shops;
27. to arrest persons carrying spirit, &c., liable to confiscation;
28. to arrest persons in possession of article liable to confiscation, and to seize article;
29. to search on information of illicit manufacture or possession.
30. Collector may issue warrant of arrest in certain cases.
31. Collector may issue search-warrant. Special warrant authorizing search at night.
32. Excise-officer to report arrest, &c.; and to take person arrested to Magistrate.
33. Procedure after arrest or seizure.
34. Police to aid excise-officers.
34A. Power to invest police-officers with powers of excise-officers.

CHAPTER VII.

Penalties.

35. Penalty for illegally manufacturing spirit or liquor;
36. for illegally introducing country spirit; for illegally removing spirit; for illegally importing spirit;
37. for contravening rules prescribed by Chief Revenue-authority;
38. for illegally cultivating hemp and preparing drugs;
39. for illicit sale of spirit, &c.;
40. for permitting drunkenness, &c., in shop;
41. for illegal possession of spirit, liquor, or drug;
42. for refusal to produce license and for breach of rules and conditions;
43. for conniving at illicit manufacture or sale of spirit, &c.;
44. for police neglecting to aid excise-officers;
45. for vexatious search or seizure;
46. for delay in reporting arrest, &c., or in taking person arrested to Magistrate.
47. Prosecutions restricted.
48. Confinement in jail.
49. Attempts and abetment.

SECTIONS.

50. Disposal of fines, &c., as rewards.
51. Magistrate to pass order of confiscation.

CHAPTER VIII.

MILITARY CANTONMENTS.

52. Manufacture and sale of spirits, &c., in military cantonments.
53. Mode of making arrest or search in military cantonments.

CHAPTER IX.

MISCELLANEOUS.

54. Collector subject to control of Commissioner.
55. Additional power to make rules.
56. Power to exempt articles and persons.

ACT No. XXII OF 1881.

Received the Governor General's assent on the 26th October, 1881.

An Act to amend the law relating to the Excise-revenue in Northern India, British Burma and Coorg.

WHEREAS it is expedient to amend the law in force in Northern India, British Burma and Coorg relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Excise Act, 1881. Short title.

It extends to the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, and Ajmere and Merwára; and Local extent.

it shall come into force on the first day of January, 1882. Commencement.

X of 1871. 2. On and from that day the Excise Act, 1871, shall be repealed, but all rules made, powers conferred and licenses and farms granted under that Act and in force on the same day shall be deemed to have been respectively made, conferred and granted under this Act. Repeal of Act X of 1871.

Interpretation-clause.

3. In this Act—

"Chief Revenue-authority":

(*a*) "Chief Revenue-authority" means—

in the territories administered by the Lieutenant-Governor of the North-Western Provinces—the Board of Revenue;

in the territories administered by the Lieutenant-Governor of the Punjab—the Financial Commissioner; and

in the territories respectively administered by the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, and Ajmere and Merwára—the Chief Commissioner:

"Collector":

(*b*) "Collector" includes any revenue-officer in independent charge of a district and any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Collector under this Act:

"Commissioner of revenue":

"Commissioner of Revenue" means any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this Act:

"Magistrate":

(*c*) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the district:

"place":

(*d*) "place" includes also house, boat and raft:

"tárí":

(*e*) "tárí" means the sap of any kind of palm-tree:

"fermented liquor":

(*f*) "fermented liquor" means malt liquor, wine, pachwai and fermented tárí, and, in any provision of this Act, shall, if the Local Government, subject to the control of the Governor General in Council, so directs, include any other fermented liquor, and also tárí though it may not have perceptibly begun to ferment:

"spirit":

(*g*) "spirit" means any liquor containing alcohol obtained by distillation:

"intoxicating drugs":

(*h*) the expression "intoxicating drugs" means gánja, bhang, charas and every preparation and admixture of the same:

"tola":

(*i*) "tola" means a weight of one hundred and eighty grains troy:

"ser":

(*j*) "ser" means a weight of eighty tolas:

"retail":

(*k*) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles;

country spirit, one ser, and in British Burma one reputed quart bottle;

country fermented liquor, four sers, and in British Burma four reputed quart bottles;

bhang, or any preparation or admixture thereof, one quarter of a ser;

gánja or charas, or any preparation or admixture thereof, five tolas:

if sold in larger quantities they shall be deemed to be sold wholesale: "wholesale:"

in any case in which doubt arises the Local Government may decide what for the purposes of this Act shall be deemed to be "country spirit," "country fermented liquor," "foreign spirit" and "foreign fermented liquor"; and such decision shall be binding on the Courts. "country spirit": "foreign spirit."

4. Nothing herein contained shall affect Act No. XVI of 1863 (*to make special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry*) or the Cantonments Act, 1880. Saving of Acts XVI of 1863 and III of 1880.

II of 1880.

CHAPTER II.

Production of Spirit, Fermented Liquor and Intoxicating Drugs.

5. No person shall construct, work or possess a distillery, still or brewery or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorised by the Collector to grant such license, and in accordance with the conditions (if any) contained therein. Manufacture of spirit and liquor without license prohibited.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time,— Power to establish distilleries for country spirit.

(*a*) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established;

(*b*) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6, until— Duty on spirit.

[a](*a*) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or

(*b*) a bond for such duty has been executed, or

(*c*) a duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct. Power to make rules as to distilleries and breweries licensed under section 5;

8. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the granting of licenses for distilleries, stills and breweries under section 5;

---

[a] S. 7, cl. (*a*), substituted by Act IX of 1885, s. 2.

(*Chapter II.—Production of Spirit, Fermented Liquor and Intoxicating Drugs. Secs. 9-11. Chapter III.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs. Sec. 12.*)

(*b*) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;

(*c*) the size and description of the stills in such distillery;

(*d*) the storing and passing out of the spirit made in such distillery, and the contents of the passes;

(*e*) the inspection and examination of the distillery and warehouses, and of the spirit made and stored therein;

(*f*) the furnishing of statements of the spirit, and of the stills, coppers, casks and other utensils, in the distillery.

and for distilleries established under section 6.

9. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the management of distilleries established under section 6, and in particular as to the conditions on which any materials to be used in making spirit may be brought into such distillery;

(*b*) the conditions on which spirit may be made in such distilleries; and

(*c*) the storing and passing out of the spirit so made, and the contents of the passes.

Sanction to rules under sections 8 and 9.

10. Except in the territories respectively administered by the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg and Ajmere and Merwára, the sanction of the Local Government is required to validate rules under sections 8 and 9.

Production of intoxicating drugs from hemp.

11. In British Burma, the cultivation of hemp and the preparation of intoxicating drugs therefrom are prohibited except under, and in accordance with, a license granted by such officer as the Chief Commissioner may from time to time appoint in this behalf.

In the other territories to which this Act extends, the Chief Revenue-authority may, from time to time, make such rules to restrict and regulate the cultivation of hemp and the preparation of intoxicating drugs therefrom as it may deem necessary to secure the duty leviable in respect of those drugs.

CHAPTER III.

SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

Spirit, &c., not to be sold without license.

12. No spirit, fermented liquor or intoxicating drugs shall be sold except under, and in accordance with the terms of, a license granted under the provisions hereinafter contained:

Proviso.

Provided as follows:—

(*a*) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease;

(*b*) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district;

(*c*) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor;

(*d*) any cultivator of the hemp plant may sell any intoxicating drug prepared from his plants to any person licensed under this Act to sell the same, or to any person authorized to purchase the same by the Collector's order in writing.

Licenses how granted.

13. Subject to the rules made by the Chief Controlling Revenue-authority under the power hereinafter conferred, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in British Burma) of intoxicating drugs, within his district or any part thereof or at any place therein.

Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in British Burma, of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.

Power to cancel license for cause specified therein.

Any license granted under this section may be cancelled by the Collector for any cause specified therein.

Power to cancel license for other causes.

14. Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall, in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or Chief Revenue-authority directs.

On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

Surrender of retail license.

15. Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same, and on payment of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf.

(*Chapter III.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs. Secs. 16-20. Chapter IV.—Possession of Spirit, Fermented Liquor and Intoxicating Drugs. Sec. 21.*)

If the Collector is satisfied that there is a sufficient reason for surrendering a license, he may remit the sum so fixed.

Power to farm fees.

16. The Collector may, with the sanction of the Chief Revenue-authority, let in farm—

(*a*) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in British Burma) of intoxicating drugs:

(*b*) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit or country fermented liquor.

Farmer to grant licenses.

When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may from time to time make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may, from time to time, prescribe in this behalf.

List of licenses granted by farmer to be filed.

Farm may be cancelled.

17. The Collector may, with the sanction of the Chief Revenue-authority, cancel any farm granted under this Act.

Compensation to farmers in certain cases.

18. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine.

Recovery of arrears by farmers.

19. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Power to regulate supply of tári and intoxicating drugs to licensed vendors.

20. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which tári shall be supplied to licensed vendors of the same, and the grant of licenses or passes to persons possessing or transporting intoxicating drugs for the supply of the licensed vendors of such drugs.

CHAPTER IV.

Possession of Spirit, Fermented Liquor and Intoxicating Drugs.

Possession of spirit, &c.

21. No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, clause (*k*), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the

same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

Nothing in this section extends to— Proviso.

(*a*) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(*b*) táṛí intended to be used for the manufacture of gúr or molasses.

Possession of intoxicating drugs.

22. In British Burma no person shall have in his possession any intoxicating drugs except under, and in accordance with the terms of, a general exemption granted by the Chief Commissioner, or a license granted by such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

In the other territories to which this Act extends, no person shall have in his possession any larger quantity of such drugs than that specified in section 3, clause (*k*), in respect of such drugs, unless he is permitted to manufacture or sell the same.

CHAPTER V.

Import of Spirit.

Spirit and fermented liquor from foreign territory subject to duty.

[a]23. (*1*) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

(*a*) if the Local Government has fixed a duty under clause (*a*) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(*2*) The provisions of sub-section (*1*) with respect to spirit shall apply to fermented liquor also, with this modification that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882. XI of 1882.

(*3*) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

---

[a] S. 23 substituted by Act II of 1887, s. 5.

CHAPTER VI.

OFFICERS AND THEIR POWERS.

Collectors may appoint Excise-officers.

24. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act; and the officers so appointed shall, in addition to their ordinary designations (if any), be styled excise-officers.

Recovery of arrears of fees.

25. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties.

Power of excise-officers to inspect shops;

26. Any excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit, or the sale of country spirit, country fermented liquor or intoxicating drugs.

to arrest persons carrying spirit, &c., liable to confiscation;

27. Any excise-officer may stop and detain any person carrying any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act;

and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it;

and may also arrest the person in whose possession such spirit, liquor or drug is found.

to arrest persons in possession of article liable to confiscation, and to seize article;

28. Any excise-officer in the receipt of a monthly salary of not less than ten rupees, [a] or who receives an annual remuneration equivalent to such salary,[a] may arrest any person having in his possession any article liable to confiscation under this Act, or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

to search on information of illicit manufacture or possession.

29. Whenever any excise-officer in receipt of such monthly salary [b] or annual remuneration[b] as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed,

such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees [b] unless the excise-officer is himself such an officer of police),[b] enter into such place,

and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article,

and may also arrest the occupier of the place, with all other persons con-

---

[a-a] These words in s. 28 were added by Act VI of 1885, s. 1.
[b-b] These words in s. 29 were added by Act VI of 1885, s. 2.

cerned in the manufacture of such spirit or in the keeping and concealing of such article.

Collector may issue warrant of arrest in certain cases.

30. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

Collector may issue search-warrant.

31. The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed.

Such warrant may be executed by any excise-officer in the receipt of a monthly salary of not less than ten rupees, at the time and in the manner prescribed in section 29.

Special warrant authorizing search at night.

Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warant specially authorizing the search to be so made. Such warrant may be executed by any excise-officer as aforesaid in the manner prescribed in section 29, and shall cease to be in force at sunrise on the day next following.

Excise-officer to report arrest, &c.; and to take person arrested to Magistrate.

32. Whenever an excise-officer arrests any person,
or seizes any article liable to confiscation under this Act,
or enters any place for the purpose of searching for any such article,
he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, seizure or search, to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested, or the article seized, with all convenient despatch to the Magistrate for trial or adjudication.

Procedure after arrest or seizure.

33. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested or the article seized, to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article.

Police to aid excise-officers.

34. All police-officers are required to aid the excise-officers in the due execution of this Act, upon request made by such officers.

Power to invest police-officers with powers of excise-officers.

*34A. The Local Government may, from time to time, invest either by name or in virtue of his office—

(*a*) any police-officer with the powers conferred on excise-officers by section 27 of this Act;

* S. 34A added by Act VI of 1885, s. 3.

(*b*) any police-officer in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on excise-officers by sections 28 and 29 of this Act.

Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an excise-officer within the meaning of this Act.

CHAPTER VII.

PENALTIES.

Penalty for illegally manufacturing spirit or liquor;

35. Whoever in contravention of section 5 constructs, works or possesses a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and all spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

36. Any person who—

for illegally introducing country spirit;

(*a*) without a special pass from the Collector, introduces, into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or

for illegally removing spirit;

(*b*) in contravention of section 7, or of any rule made under section 8 or section 9, removes any spirit from a distillery, or

for illegally importing spirit;

(*c*) in contravention of section 23, brings any spirit [a]or fermented liquor[a] into any territory to which this Act extends,

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and the spirit [a]or fermented liquor,[a] together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

for contravening rules prescribed by Chief Revenue-authority;

37. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 8 or section 9 shall be punished with fine not exceeding one hundred rupees.

for illegally cultivating hemp and preparing drugs;

38. Any person who, in contravention of section 11 or of any rule made thereunder, cultivates hemp or prepares any intoxicating drug, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

for illicit sale of spirit, &c.;

39. Any person who, in contravention of section 12, sells any spirit, fermented liquor or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with a fine which may extend to one thousand rupees, or with both.

for permit-

40. Any person licensed to sell retail spirit, or fermented liquor, or intoxi-

---

[a-a] These words in s. 36 were added by Act II of 1887, s. 6.

cating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.

ting drunkenness, &c., in shop;

41. Any person who possesses any spirit, liquor or drug, in contravention of section 21 or section 22, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both;

for illegal possession of spirit, liquor or drug;

and the spirit, liquor or drug, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

42. Any person holding a license under this Act and refusing to produce the same on the demand of any excise-officer, and any person who breaks any rule made under this Act or any condition of a license granted under this Act, for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

for refusal to produce license and for breach of rules and conditions;

43. Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs, shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

for conniving at illicit manufacture or sale of spirit, &c.;

And any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor or intoxicating drug within the local limits of such jurisdiction shall be punished with fine which may extend to five hundred rupees.

44. Any police-officer who, without lawful excuse, neglects or refuses to aid an excise-officer as required by section 34, and any officer in charge of a police-station who, on application made by an excise-officer desiring to act under section 29, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

for police neglecting to aid excise-officers;

45. Any excise-officer who—

for vexatious search or seizure;

(*a*) without reasonable grounds of suspicion searches or causes to be searched any place, or

(*b*) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily arrests any person, or

(*d*) commits any other excess not required for the execution of his duty,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

46. Any excise-officer who, in contravention of section 32 or section 33,

for delay

in reporting arrest, &c., or in taking person arrested to Magistrate,

neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

*47. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 35, 36, 37, 38, 39, 41, 42 and 43, except on the complaint or report of the Collector or an excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Confinement in what jail.

48. Every person imprisoned for an offence under section 37 or section 42 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

49. Whoever attempts to commit any offence punishable under this Act or abets within the meaning of the Indian Penal Code the commission of any such offence shall be punished with the punishment provided for such offence. XLV of 1860.

Disposal of fines, &c., as rewards.

50. Any Magistrate before whom any person is convicted of any offence under sections 35, 36, 37, 38, 39, 41 or 43 may award to any person who has contributed in any way to such conviction the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate to pass order of confiscation.

51. Any article liable to confiscation under this Act may, on the application of an excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

CHAPTER VIII.

MILITARY CANTONMENTS.

Manufacture and sale of spirits, &c., in military cantonments.

52. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the commanding officer;

and upon his requisition any such license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled.

Mode of making arrest or search in military cantonments.

53. In all other respects the provisions of this Act shall have effect within such limits or distance:

Provided that, whenever any arrest or search under this Act is to be

* S. 47 substituted by Act VI of 1885, s. 4.

made within the limits of any cantonment, the Collector or other officer authorized to make such arrest or search shall, whenever it may be practicable, give previous notice to the commanding officer, and in all other cases shall report the arrest or search to such commanding officer with as little delay as possible.

CHAPTER IX.

MISCELLANEOUS.

Collector subject to control of Commissioner.

54. The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

Additional power to make rules.

55. The Chief Controlling Revenue-authority may, from time to time, make rules consistent with this Act—

(*a*) as to the period for which any license or farm under this Act shall be granted;

(*b*) as to the fee payable for any such license or farm, and the time or times at which it shall be payable;

(*c*) as to the security to be given by any licensee or farmer under this Act;

(*d*) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein;

(*e*) as to the disposal of things confiscated under this Act;

(*f*) as to the duties of excise-officers; and

(*g*) to provide generally for carrying out the provisions of this Act.

Power to exempt articles and persons.

56. The Local Government may from time to time, by notification in the official Gazette, exempt within any special local area any specified articles or any specified class of persons from all or any of the foregoing provisions of this Act, and may, by like notification, cancel any such exemption.

ACT No. XXIV OF 1881.

Received the Governor General's assent on the 26th October, 1881.

An Act to amend the Punjab Laws Act, 1872.

Preamble.

WHEREAS, in order to provide for the establishment of a system of municipal-watchmen in certain municipalities in the territories administered by the

Lieutenant-Governor of the Punjab, it is expedient to amend the Punjab Laws Act, 1872; It is hereby enacted as follows:— IV of 1872.

Short title. Commencement.

1. This Act may be called the Punjab Laws Amendment Act, 1881, and shall come into force at once.

Substitution of new sections for sections 39A and 39B of Act IV of 1872.

2. For sections 39A and 39B of the said Act the following sections shall be substituted:—

(Vide supra, pp. 73-74.)

THE PUNJAB UNIVERSITY ACT, 1882.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Establishment and incorporation of University.
3. Property of Punjab University College to vest in University.
4. Chancellor.
5. Vice-Chancellor.
6. Fellows.
7. First Fellows.
8. Cancellation and vacation of appointment of Fellow.
9. Constitution and powers of Senate.
10. Chairman at meetings of Senate.
11. Proceedings at meetings of Senate.
12. Appointment of Syndicate, Faculties, examiners and officers.
13. Functions of Syndicate.
14. Power to confer degrees, &c., after examination.
15. Power to confer degrees on persons who have passed examinations at the Punjab University College in 1882.
16. Power to confer honorary degrees.
17. Power to levy fees.
18. Power to make statutes, rules and regulations.
19. Duty of Local Government to enforce Act, statutes, rules and regulations.
20. Notifications in certain cases.
21. Annual accounts.
22. Temporary provision as to statutes, rules and regulations.

THE SCHEDULE.

PART I.—OFFICES TO BE DEEMED TO HAVE BEEN SPECIFIED UNDER SECTION 6, CLAUSE (*a*).

PART II.—PERSONS TO BE DEEMED TO HAVE BEEN APPOINTED FELLOWS UNDER SECTION 6, CLAUSE (*b*) OR (*c*).

ACT No. XIX of 1882.

Received the Governor General's assent on the 5th October, 1882.

An Act to establish and incorporate the University of the Punjab.

Preamble.

WHEREAS an Institution, styled at first the Lahore University College, but subsequently the Punjab University College, was established at Lahore in the year 1869, with the special objects of promoting the diffusion of European science, as far as possible, through the medium of the vernacular languages of the Punjab, improving and extending vernacular literature generally, affording encouragement to the enlightened study of the Eastern classical languages and literature, and associating the learned and influential classes of the Province with the officers of Government in the promotion and supervision of popular education;

But it was at the same time provided that every encouragement should be afforded to the study of the English language and literature, and that, in all subjects which could not be completely taught in the vernacular, the English language should be regarded as the medium of examination and instruction;

And whereas this Institution was, by a Notification, No. 472, dated 8th December, 1869, published in the Punjab Government Gazette of the twenty-third day of December, 1869, declared to be so established, in part fulfilment of the wishes of a large number of the Chiefs, Nobles and influential classes of the Punjab, and it is now expedient, the said Institution having been attended with success, further to fulfil the wishes of the said Chiefs, Nobles and influential classes, by constituting the said Institution a University for the purpose of ascertaining, by means of examination or otherwise, the persons who have acquired proficiency in different branches of Literature, Science and Art, and for the purpose of conferring upon them academical degrees, diplomas, Oriental literary titles, licenses and marks of honour;

And whereas it is also expedient that the University so constituted should be incorporated, and that the property, moveable and immoveable, which has been hitherto held by, or in trust for, the said Institution should become the property of the University, subject to all existing trusts as to the manner in which, and the purposes to which, that property or any part thereof is to be applied;

It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Punjab University Act, 1882; and it shall come into force at once.

Establishment and incorporation of University.

2. (*1*) A University shall be established at Lahore; and the Governor General for the time being shall be the Patron of the University.

(*2*) The University shall consist of a Chancellor, a Vice-Chancellor and such number of Fellows as may be determined in manner hereinafter provided.

(*3*) The University shall be a body corporate by the name of the University of the Punjab, having perpetual succession and a common seal, with power to acquire and hold property, moveable or immoveable, to transfer the same, to

contract, and to do all other things necessary for the purposes of its constitution.

[a](*4*) The University shall come into existence on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Property of Punjab University College to vest in University.

3. All the property, moveable and immoveable, held at the date at which the University comes into existence by or in trust for the Punjab University College, shall, on that date, become the property of the University, to be administered by it for the purposes of the University, subject to all existing trusts as to the manner in which, and the purposes to which, that property or any part thereof is to be applied.

Chancellor.

4. The Lieutenant-Governor of the Punjab for the time being shall be the Chancellor of the University; and the first Chancellor shall be the Hon'ble Sir Charles Umpherston Aitchison, Knight Commander of the Most Exalted Order of the Star of India, Companion of the Order of the Indian Empire, Doctor of Laws.

Vice-Chancellor.

5. (*1*) The Vice-Chancellor shall be such one of the Fellows as the Chancellor may, from time to time, appoint in this behalf.

(*2*) Except as provided in sub-section (*4*), he shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be re-appointed.

(*3*) But if a Vice-Chancellor leaves India without the intention of returning thereto, he shall thereupon cease to be Vice-Chancellor.

(*4*) James Broadwood Lyall, Esquire, of the Bengal Civil Service, and at present Financial Commissioner of the Punjab, shall be deemed to have been appointed the first Vice-Chancellor; and his term of office shall, subject to the provisions of sub-section (*3*), expire on the last day of December, 1884.

Fellows.

6. The following persons shall be Fellows, namely:—

(*a*) every person who has held the office of Chancellor, and all persons for the time being holding such offices under Government as the Local Government may, from time to time, by notification in the official Gazette, specify in this behalf;

(*b*) persons whom the Chancellor may, from time to time, appoint by name as being eminent benefactors of the Punjab University, original promoters of the movement in favour of the establishment of the Punjab University College, or persons distinguished for attainments in Literature, Science or Art, or for zeal in the cause of education;

(*c*) such persons (if any) as may, from time to time, be elected by the Senate of the University, and approved by the Chancellor; and

(*d*) the representatives, for the time being with the Government of the Punjab, of such Chiefs (if any) of territories not comprised in British India as the Local Government may, from time to time, by notification in the official Gazette, specify in this behalf:

[a] The University came into existence on the 14th October, 1882, see Notification No. 383 S., *Punjab Gazette*, 19th October, 1882, Part I, p. 485.

Provided that—

(*1*) the whole number of the Fellows holding office under clauses (*a*), (*b*) and (*c*), exclusive of the Vice-Chancellor, shall never be less than fifty; and

(*2*) the number of persons for the time being elected under clause (*c*) shall never exceed the number for the time being appointed under clause (*b*).

Explanation.—The succession to an office notified under clause (*a*), of a person elected under clause (*c*) or appointed under clause (*b*), does not affect his position for the purposes of the second clause of this proviso.

First Fellows.

7. (*1*) The offices specified in Part I of the schedule hereto annexed shall be deemed to have been specified in a notification issued under section 6, clause (*a*); and

(*2*) the persons named in Part II of that schedule shall, except for the purposes of the second clause of the proviso to section 6, be deemed to have been appointed Fellows under clause (*b*) or (*c*) of section 6.

Cancellation and vacation of appointment of Fellow.

8. (*1*) The Chancellor may, with the consent of not less than two-thirds of the members of the Senate for the time being in India, cancel the appointment of any Fellow appointed under section 6, clause (*b*) or clause (*c*); and the Local Government may, whenever it thinks fit, by notification in the official Gazette, cancel or amend any notification issued under section 6, clause (*a*) or clause (*d*).

(*2*) If any Fellow appointed under section 6, clause (*b*) or clause (*c*), and not being a person named in Part II of the schedule to this Act, leaves India without the intention of returning thereto, or is absent from India for more than four years, he shall thereupon cease to be a Fellow.

Constitution and powers of Senate.

9. (*1*) The Chancellor, Vice-Chancellor and Fellows for the time being shall form the Senate of the University.

(*2*) The Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall provide for that management, and exercise that superintendence, in accordance with the statutes, rules and regulations for the time being in force under this Act.

Chairman at meetings of Senate.

10. At every meeting of the Senate the Chancellor, or, in his absence, the Vice-Chancellor, or, in the absence of both, a Fellow chosen by a majority of the Fellows present at the meeting, shall preside as chairman.

Proceedings at meetings of Senate.

11. Every question which comes before the Senate at a meeting shall be decided by a majority of the votes of the members present and of such members for the time being in India as may have sent proxies in accordance with the rules for the time being in force under this Act; and the chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote:

Provided that no question shall be decided at any such meeting unless fourteen members at the least, besides the chairman, are present at the time of the decision.

Appointment of Syndicate, Faculties, examiners and officers.

12. Subject to the statutes, rules and regulations for the time being in force under this Act, the Senate may, from time to time,—

(1) constitute an Oriental Faculty and Faculties of Arts, Law, Science, Medicine and Engineering;

(2) appoint, or provide for the appointment of, a Syndicate;

(3) appoint, suspend and remove a Registrar;

(4) appoint, suspend and remove, or provide for the appointment, suspension and removal of,—

(*a*) examiners, officers and servants of the University, and

(*b*) professors and lecturers in connection with the University.

The first Registrar shall be Gottlieb William Leitner, Esquire, Master of Arts, Doctor of Laws, Barrister-at-Law.

Functions of Syndicate.

13. The Syndicate shall be the executive committee of the Senate, and may discharge such functions of the Senate as it may be empowered to discharge by the statutes, rules and regulations for the time being in force under this Act.

Power to confer degrees, &c., after examination.

14. Subject to the statutes, rules and regulations for the time being in force under this Act, the Senate may confer on all persons who have passed such examinations in the University and fulfilled such other conditions as may be prescribed under this Act,—

(*a*) in the Oriental Faculty, the degrees of Bachelor, Master and Doctor of Oriental Learning;

(*b*) in the Faculty of Arts, the degrees of Bachelor and Master of Arts and Doctor of Literature:

and, if empowered by the Governor General in Council in this behalf,—

(*c*) in the Faculty of Law, the degrees of Bachelor and Doctor of Laws;

(*d*) in the Faculty of Science, the degrees of Bachelor and Doctor of Science;

(*e*) in the Faculty of Medicine, the degrees of Bachelor and Doctor of Medicine;

(*f*) in the Faculty of Engineering, the degrees of Bachelor and Master of Civil Engineering.

The Senate may also confer—

(*g*) such diplomas, Oriental literary titles and licenses as may be prescribed by any rules for the time being in force under this Act; and

(*h*) such marks of honour for a high degree of proficiency in the different branches of Literature, Science and Art as may be prescribed by those rules.

Power to confer degrees on persons who have passed examinations at the Punjab

15. Notwithstanding anything in section 14, the Senate may confer degrees, diplomas, Oriental literary titles, licenses or marks of honour, as provided by that section, on any persons who have in the year 1882, before the passing of this Act, passed such examinations prescribed by the Punjab University College as may be sufficient to satisfy the Senate that they are

persons qualified in point of learning to obtain those degrees, diplomas, Oriental literary titles, licenses or marks of honour. University College in 1882.

16. Notwithstanding anything hereinbefore contained, but subject to the confirmation of the Chancellor, the Senate may, in the Oriental Faculty and the Faculties of Arts and Law, grant the degree of Doctor to any person without requiring him to undergo any examination for that degree: Power to confer honorary degrees.

Provided that—

(*1*) a resolution has been passed at a meeting of the Senate that the person is, by reason of eminent position and attainments, a fit and proper person to receive that degree; and

(*2*) in the case of degrees in the Faculty of Law, the Senate has been empowered by the Governor General in Council to grant such degrees after examination.

17. The Senate may charge such reasonable fees for entrance into the University and continuance therein, for admission to the examinations of the University, for attendance at any lectures or classes in connection with the University, and for the degrees to be conferred by the University, as may be imposed by the Rules or Regulations for the time being in force under this Act. Power to levy fees.

18. (*1*) The Senate shall, as soon as may be after the passing of this Act, and may from time to time thereafter, make statutes, rules and regulations consistent with this Act touching— Power to make statutes, rules and regulations.

(*a*) the mode and time of convening the meetings of the Senate and of transacting business thereof;

(*b*) the appointment, suspension, removal, duties and remuneration of the Registrar, examiners, professors, lecturers, officers and servants;

(*c*) the appointment, constitution and duties of the Syndicate and the Faculties;

(*d*) the previous course of instruction to be followed by candidates for the examinations of the University;

(*e*) the examinations to be passed and the other conditions to be fulfilled by candidates for degrees;

(*f*) the examinations to be passed and the other conditions to be fulfilled by candidates for diplomas, Oriental literary titles, licenses and marks of honour, respectively;

(*g*) the conduct of examinations for degrees, diplomas, Oriental literary titles, licenses and marks of honour; and

(*h*) generally all matters regarding the University.

(*2*) All such statutes, rules and regulations shall be reduced into writing, and sealed with the common seal of the University, and shall—

(*a*) in the case of statutes, and of rules and regulations made under clause (*e*) of this section, after they have been confirmed by the Local Government and sanctioned by the Governor General in Council, and

(*b*) in the case of all other rules and regulations, after they have been sanctioned by the Local Government,

be binding on all persons, members of the University, or admitted thereto, and on all candidates for degrees, diplomas, Oriental literary titles, licenses and marks of honour.

(*3*) If, on the expiration of eighteen months from the date on which the University comes into existence, no statutes, rules or regulations have been made and sanctioned, or (as the case may be) made, confirmed and sanctioned, under the foregoing provisions of this section, touching a matter mentioned in sub-section (*1*), the Local Government may, by notification in the official Gazette, make such statutes, rules or regulations touching that matter as it thinks fit; and, subject in the case of statutes and of rules and regulations touching the matters mentioned in clause (*e*) to the sanction of the Governor General in Council, those statutes, rules or regulations shall be deemed to have been made and sanctioned, or (as the case may be) made, confirmed and sanctioned, under sub-sections (*1*) and (*2*).

Duty of Local Government to enforce Act, statutes, rules and regulations.

19. It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act and with the statutes, rules and regulations for the time being in force under the same; and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may (among other things) annul, by a notification in the official Gazette, any such proceeding which is not in conformity with this Act and the said statutes, rules and regulations.

Notifications in certain cases.

20. All appointments made under section 5, all appointments made or cancelled under section 6, clauses (*b*) and (*c*), and section 8, all degrees, diplomas, Oriental literary titles or licenses conferred under sections 14, 15 and 16, and all statutes, rules and regulations made under section 18, shall be notified in the official Gazette; wherein also the record of the proceedings of every meeting of the Senate shall be duly published.

Annual accounts.

21. The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as the Local Government may direct.

Temporary provision as to statutes, rules and regulations.

22. The statutes, rules and regulations of the Punjab University College shall, so far as they are consistent with this Act, be deemed to be the statutes, rules and regulations of the University, and shall remain in force for two years from the date on which the University comes into existence, unless they are sooner repealed by a statute made in accordance with section 18.

THE SCHEDULE.

(*See section 7.*)

PART I.

Offices to be deemed to have been specified under section 6, clause (*a*) :—

The office of—

Judge of the Chief Court, Punjab;

Financial Commissioner of the Punjab;
Surgeon-General of the Punjab;
Commissioner of Lahore;
Commissioner of Delhi;
Commissioner of Amritsar;
Accountant-General of the Punjab;
Director of Public Instruction, Punjab;
Principal of the Lahore Government College;
Principal of the Lahore Medical School;
Inspector of Schools in the Punjab;
Deputy Commissioner of Lahore;
Deputy Commissioner of Delhi;
Deputy Commissioner of Amritsar.

PART II.

Persons to be deemed to have been appointed Fellows under section 6, clause (*b*) or (*c*) :—

His Highness Mahárájá Ranbír Singh, of Jammú and Kashmír, G.C.S.I., C.I.E., Counsellor of the Empress of India;
His Highness Mahárájá Rajindar Singh, of Patiála;
His Highness Nawáb Sadík Muhammad Khán, of Baháwalpur, G.C.S.I.;
His Highness Rájá Raghbír Singh, of Jhínd, G.C.S.I., C.I.E., Counsellor of the Empress of India;
His Highness Rájá Híra Singh, of Nabhá, G.C.S.I.;
His Highness Rájá Jagatjít Singh, of Kapúrthhala;
Rájá Bije Sen, of Mandi;
Nawáb Ibrahím Alí Khán, of Maler Kotla;
Rájá Bikram Singh, of Farídkot;
Nawáb Abdul Majid Khán;
Sardár Ajít Singh, Atariwála;
Rai Amín Chand, Sardár Bahádur;
Malaz-ul-Ulma Sardár Atar Singh, C.I.E., of Bhadaur;
Major-General Henry Prevost Babbage, Bengal Staff Corps, late Deputy Commissioner, Punjab;
David Graham Barkley, Esquire, M.A., Bengal Civil Service, Barrister-at-Law;
Deputy Surgeon-General Henry Walter Bellew, C.S.I.;
Reverend Edward Bickersteth, M.A.;
Charles Boulnois, Esquire, Barrister-at-Law, late Judge, Chief Court, Punjab;
Sardár Bikráma Sing, C.S.I., Ahluwália;
Arthur Brandreth, Esquire, Barrister-at Law, late of the Bengal Civil Service, and Judge, Chief Court, Punjab;

Surgeon-Major Thomas Edwin Burton Brown, M.D.;
John Scarlett Campbell, Esquire, late of the Bengal Civil Service, and Judge, Chief Court, Punjab;
Surgeon-Major William Center, M.D., M.A.;
Reverend Robert Clark, M.A.;
John Graham Cordery, Esquire, M.A., Bengal Civil Service;
The Hon'ble Henry Stuart Cunningham, M.A., Barrister-at-Law, Judge of the High Court, Calcutta;
Surgeon-Major Alexander Morrison Dallas;
Mansel Longworth Dames, Esquire, Bengal Civil Service;
Sir Robert Henry Davies, K.C.S.I., C.I.E., late Lieutenant-Governor of the Punjab and its Dependencies;
Colonel William George Davies, C.S.I.;
Deputy Surgeon-General Annesley Charles Castriot DeRenzy, B.A.;
Sir Robert Eyles Egerton, K.C.S.I., C.I.E., Counsellor of the Empress, late Lieutenant-Governor of the Punjab and its Dependencies;
Dennis Fitzpatrick, Esquire, B.A., Bengal Civil Service, Barrister-at-Law;
Reverend C. W. Foreman, D.D.;
The Right Reverend Thomas Valpy French, D.D., Lord Bishop of Lahore;
Munshi Ghulám Nabi;
Surgeon-Major Robert Gray, M.B.;
Major Leopold John Henry Gray, C.S.I., Bengal Staff Corps;
Sir Lepel Henry Griffin, K.C.S.I., Bengal Civil Service;
Pandit Guru Parshád;
Sayyad Hádí Husain Khán;
Rájá Harbans Singh;
Kaur Harnám Singh, Ahluwália;
Doctor Thomas Hastings, late Deputy Inspector-General of Hospitals;
Edward Piercy Henderson, Esquire, Bengal Civil Service, Barrister-at-Law;
Surgeon-Major George Henderson, M.D.;
Mír Hidayat Alí, Khán Bahádur;
Lieutenant-Colonel William Rice Morland Holroyd;
Reverend W. Hooper, M.A.;
Reverend T. P. Hughes, B.D.;
Munshi Hukm Chand;
Sodhí Hukm Singh;
Denzil Charles Jelf Ibbetson, Esquire, B.A., Bengal Civil Service;
Rájá Jahándád Khán, Khán Bahádur, Ghakkar;
Aghá Kalbabíd;
Fakír Sayyad Kamr-ud-dín;
Rai Bahadur Kanhya Lál, C.E.;
Khán Bahádur Khán Muhammad Sháh;
Bábá Khem Singh, C.I.E., Bedi;

John Lockwood Kipling, Esquire;
Surgeon Edwárd Lawrie, M.D.;
Gottlieb William Leitner, Esquire, M.A., LL.D.;
Thomas Crampton Lewis, Esquire, M.A.;
Charles Robert Lindsay, Esquire, late of the Bengal Civil Service, and Judge, Chief Court, Punjab;
James Broadwood Lyall, Esquire, Bengal Civil Service;
General Robert Maclagan, R.E., late Secretary to Government, Punjab, Public Works Department;
Colonel Charles Alexander McMahon;
The Ven'ble Henry James Matthew, M.A., Archdeacon of Lahore;
Colonel Julius George Medley, R.E.;
Philip Sandys Melvill, Esquire, C.S.I., late of the Bengal Civil Service, and Governor General's Agent, Baroda;
John Andrew Erasmus Miller, Esquire;
Pandit Motí Lál, Káthju;
Khán Bahádur Muhammad Barkat Alí Khán;
Khalífa Sayyad Muhammad Hussain;
Muhammad Hyat Khán, C.S.I.;
Rai Múl Singh;
Nasir Alí Khán, Kazilbásh;
Bábú Navina Chandrá Rai;
Nawáb Nawázish Alí Khán;
Major Edward Newbery;
Edward O'Brien, Esquire, Bengal Civil Service;
Henry Edmund Perkins, Esquire, Bengal Civil Service;
Henry Meredith Plowden, Esquire, B.A., Barrister-at-Law;
Major-General Charles Pollard, R.E.;
Baden Henry Baden-Powell, Esquire, Bengal Civil Service;
Edward Augustus Prinsep, Esquire, late of the Bengal Civil Service, and Settlement Commissioner, Punjab;
Honorary Surgeon Rahím Khán, Khán Bahádur;
Diwán Rám Náth;
William Henry Rattigan, Esquire, M.A., PH.D., Barrister-at-Law;
Pandit Rikhi Kesh;
Rájá Sir Sáhib Dyal, K.C.S.I.;
Rai Bahádur Sáhib Singh;
Leslie Seymour Saunders, Esquire, Bengal Civil Service;
Brigade-Surgeon John Barcley Scriven, late Civil Surgeon, Lahore;
David Simson, Esquire, late of the Bengal Civil Service, and Judge, Chief Court, Punjab;
John Sime, Esquire, B.A.;
Surgeon-General Charles Manners Smith, late of the Indian Medical Service;

John Watt Smyth, Esquire, Bengal Civil Service, Barrister-at-Law;
Charles Henry Spitta, Esquire, LL.B., Barrister-at-Law;
Thomas Henry Thornton, Esquire, D.C.L., C.S.I., late of the Bengal Civil Service, and Judge, Chief Court, Punjab;
Thomas William Hooper Tolbort, Esquire, Bengal Civil Service, Barrister-at-Law;
Charles Lewis Tupper, Esquire, B.A., Bengal Civil Service;
Major Isaac Peatt Westmoreland, R.E.;
Lieutenant-Colonel George Gordon Young;
William Mackworth Young, Esquire, M.A., Bengal Civil Service;
Maulvi Zia-ud-dín Khán.

ACT No. XIII OF 1883.

Received the Governor General's assent on the 12th September, 1883.

An Act to declare the law in force in certain lands which have been or hereafter may be ceded by the Bahâwalpur State for occupation by the Indus Valley State Railway.

Whereas Act X of 1880 (*to declare the law in force in certain lands annexed to the Multán District*) provides that all enactments which, on the second day of September, 1879, were in force in the Multán District and not in force in the lands occupied by the Indus Valley State Railway, and the works, premises and stations thereof, within the limits of the Bahâwalpur State, which have been ceded to the British Government in full sovereignty by that State, and have been declared by the Governor General in Council to be subject to the Lieutenant-Governorship of the Punjab, and have by the Lieutenant-Governor of the Punjab been annexed to the Multán District, shall be deemed to have come into force in the said lands on that day;

and whereas it is expedient to make like provision for certain other lands occupied by the same Railway, and the works, premises and stations thereof, within the limits of the same State, which have, since the second day of September, 1879, been ceded to the British Government in full sovereignty by the same State, and have been declared by the Governor General in Council to be subject to the same Lieutenant-Governorship, and have by the same Lieutenant-Governor been annexed to the same district;

and whereas it is also expedient to make like provision for any lands to be hereafter occupied by the same Railway, and the works, premises and stations thereof, within the limits of the same State, which may be ceded to the British Government in full sovereignty by the same State, and may be declared by the Governor General in Council to be subject to the same Lieutenant-Governorship, and may by the same Lieutenant-Governor be annexed to the same or some other district;

It is hereby enacted as follows :—

1. Act X of 1880 is hereby repealed.

Repeal of Act X of 1880.

2. All enactments which, on the date on which any such lands as are referred to in the preamble to this Act have been, or may hereafter be, annexed to the Multán or any other district, were, or shall be, in force in that district, and not in the said lands, shall be deemed to have come, or, as the case may be, shall come, into force in the said lands on that date.

Law in force in Multán or other district to apply to ceded lands occupied by Indus Valley State Railway.

THE PUNJAB DISTRICT BOARDS ACT, 1883.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title. Extent. Commencement.
2. Repeal of Act V of 1878.
3. Definitions.
4. Powers exercisable from time to time.

CHAPTER II.

OF THE LOCAL RATE ON LAND.

5. The local rate.
6. Road, school and post cesses to merge in the rate.
7. Liability for local rate.
8. Power to recover a share of the rate from occupancy-tenant.
9. Appropriation of proceeds of local rate.

CHAPTER III.

OF DISTRICT AND LOCAL BOARDS.

A.—Constitution of District and Local Boards.

10. Establishment of district and local boards.
11. Number and appointment or election of members.
12. Term of office of members.
13. Resignation of members.
14. Powers of the Local Government as to removal of members.

SECTIONS.

15. Filling of casual vacancies.
16. Incorporation of district boards.
17. Time for district and local boards coming into existence.
18. Chairman.
19. Vice-chairman.

B.—Duties of District and Local Boards.

20. Duties of district board.
21. Duties of local board.
22. Limits on expenditure of local board.
23. Power for district board to provide for performance of duty in default of local board.

C.—Joint Committees.

24. Joint committees.

D.—Conduct of Business.

25. Record and publication of proceedings.
26. Power to make rules as to business and affairs.

E.—Officers and Servants.

27. Employment of officers and servants.
28. Pensions of Government officials serving boards.
29. Pensions of servants of boards.

F.—Taxation and Finance.

30. Powers of taxation conferred on district boards.
31. Procedure in imposing taxes.
32. Reduction and abolition of tax.
33. Levy of fees.
34. Additional funds to be provided by the Government.
35. District fund.
36. Vesting, custody and investment of district fund.
37. Application of district fund.
38. Works or undertakings benefiting several districts.
39. Annual estimates of income and expenditure of district boards.
40. Accounts of district boards.
41. Estimates and accounts of local boards.
42. Inspection of estimates and accounts.
43. Publication of abstract of acccounts.

G.—Control.

44. Control of Commissioner and Deputy Commissioner over boards and joint committees.
45. Power to suspend action.
46. Extraordinary powers of Deputy Commissioner in case of emergency.
47. Power to provide for performance of duties in case of default of board.

SECTIONS.

48. Power to invest other officers with power of control.
49. Report of action under preceding sections.
50. Powers of Local Government and its officers over boards.
51. Power of Local Government to supersede the board in case of incompetency, persistent default or abuse of powers.
52. Consequences of supersession.
53. Constitution of new board, and transfer of functions of superseded local boards.
54. Disputes.
55. Power of the Governor General in Council and the Local Government to make rules.

II.—Regulations.

56. Power to make regulations.
57. Penalty for infringement of regulations.
58. Prosecutions.

I.—Supplemental and Exceptional Provisions.

59. Liability of members of boards.
60. Procedure for making rules and regulations.
61. Acquisition of land.
62. Penalty on member, officer or servant being interested in contracts made with a board or joint committee.
63. Saving of Act XI of 1879.
64. General powers of Local Government and Commissioners.
65. Contracts of local committees.
66. Government officers serving under committees to continue under board.
67. Power of Local Government to except local area from operation of Act.
68. Committee to be constituted for district wholly excepted from Act.
69. Power to direct that Act XX of 1856 shall cease to be in force.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS AS TO TAXATION.

70. Recovery of rates.
71. Local rate or tax how to be assessed and collected.
72. Appeals.
73. Instalments of rates and taxes.
74. Power of Local Government to exempt from taxation.
75. Power to direct measurements.
76. Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.
77. Confirmation and recovery of existing rates.

CHAPTER V.

AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878.

SECTIONS.

78. Amendment of Act XVII of 1878.
79. Further amendment.

ACT No. XX OF 1883.

Received the Governor General's assent on the 12th October, 1883.

An Act to make better provision for local self-government in the Districts of the Punjab.

WHEREAS it is expedient to amend the law in force in the territories administered by the Lieutenant-Governor of the Punjab for the levy and expenditure of rates on land; and

Whereas it is also expedient to provide for the constitution of district boards and local boards in those territories, and to define and regulate the powers to be exercised by those boards;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. (*1*) This Act may be called the Punjab District Boards Act, 1883.

Extent.

(*2*) It shall extend only to the territories for the time being administered by the Lieutenant-Governor of the Punjab; and

Commencement.

[a](*3*) It shall come into force in each district on such date as the Local Government, by notification, directs.

Repeal of Act V of 1878.

2. From the date on which this Act comes into force in any district, the Punjab Local Rates Act, 1878,[b] shall be repealed throughout that district. But all rates imposed, sums credited to the Local Government, and notifications published under that Act, shall, so far as may be, be deemed to have been respectively imposed, credited and published under this Act. V of 1878.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "land" means land assessed to the land-revenue, and includes land whereof the land-revenue has been wholly, or in part, released, compounded for, redeemed or assigned:

(*2*) "land-revenue" includes trini or grazing-dues levied for grazing on Government lands under section 48 of the Punjab Laws Act, 1872: IV of 1872.

(*3*) "landholder" means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes the proprie-

---

[a] The Act has been brought into force in all districts, except Simla.
[b] Act V of 1878 has not been reprinted, see Preface, para. 8.

tor of land, the land-revenue of which has been wholly, or in part, released, compounded for, redeemed or assigned :

(*4*) "annual value" means—

(*a*) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not ; or,

(*b*) where the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition or redemption, would have been leviable ; or,

(*c*) where no land-revenue has been assessed, double the amount which would have been assessed if the average village-rate had been applied :

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal-irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value :

(*5*) "financial year" means the year commencing on the first day of April :

(*6*) "prescribed day" means such day as the Local Government may, from time to time, prescribe :

(*7*) "notification" means a notification published in the official Gazette :

(*8*) "Notified" means notified in the official Gazette :

(*9*) "Deputy Commissioner" means the Deputy Commissioner of a district, and includes any officer specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

Powers exercisable from time to time.

4. All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

Of the Local Rate on Land.

The local rate.

5. (*1*) All land shall be subject to the payment of a rate, to be called the local rate, not exceeding one anna for every rupee of its annual value.

(*2*) The proportion which the local rate shall bear to the annual value of land shall, except as provided in sub-section (*3*), be fixed for each district by the Local Government by notification.

(*3*) The Local Government may, by notification, delegate to the district board, subject to such restrictions or conditions as it thinks fit, its powers under sub-section (*2*), and may, by notification, cancel or vary any such notification.

Road, school and post-

6. From such date as may be notified in respect of each district by the Local Government, all authorized rates and cesses for the maintenance of

cesses to merge in the rate.

roads, schools and the district-post shall merge in and become part of the local rate, and no rate or cess other than the local rate shall be thereafter leviable for those purposes.

Liability for local rate.

7. The landholder shall be liable for the local rate subject to the following provisoes, namely:—

(*1*) where the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, the assignee of revenue or village-headman shall be liable for the payment of the local rate instead of the landholder, and no demand shall be made by any such assignee or village-headman on the landholder in respect of the payment of the rate; and

(*2*) where the Government has, under any lease current at the time when this Act comes into force, paid the local rate on trini, it shall continue to pay the rate during the currency of the lease.

Power to recover a share of the rate from occupancy-tenant.

8. When a local rate is payable by a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, the landholder may realise from the tenant a share of the rate bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by the tenant bears to half the annual value.

Appropriation of proceeds of local rate.

9. Four-fifths of the net proceeds of the local rate levied in each district, after deducting the expenses of collection, shall, except as provided in section 68, be allotted to the district board established for that district under this Act.

The remaining one-fifth shall be carried to the credit of the Local Government, and may—

(*a*) be allotted by that Government to any district board established under this Act; or

(*b*) be applied by that Government to provide in the territories to which this Act extends, or any part thereof, for any of the matters on which district boards may expend the funds at their disposal under this Act:

Provided that the Local Government may direct that the whole or any portion of the net proceeds of the local rate levied within the limits of any municipality or military cantonment, after deducting the expenses of collection, shall be carried to the credit of the municipal fund, or made available for the purpose of public improvement in the cantonment or for carrying out therein any rules made under section 25 of the Cantonments Act, 1880, as the case may be. III of 1880.

CHAPTER III.

Of District and Local Boards.

A.—Constitution of District and Local Boards.

Establishment of

10. (*1*) The Local Government shall, by notification, establish a district board for each district.

(*2*) The Local Government may, by notification, establish a local board or local boards within the limits of any district, and may cancel or vary any such notification. district and local boards.

(*3*) A district board shall have authority throughout the district for which it is established, and a local board shall have authority throughout such portion of the district in which it is established, as the Local Government may by notification, direct:

Provided that a board shall not have authority over any portion of a district which is for the time being included in a military cantonment or a municipality.

11. (*1*) A district board or local board shall consist of such number of members, not less than six, as the Local Government may fix in this behalf. Number and appointment or election of members.

(*2*) The members may be appointed by the Local Government either by name or by official designation, or may be elected in accordance with rules made by the Local Government under this Act, or some may be appointed and some elected, as the Local Government directs:

Provided that—

(*a*) when the Local Government has directed that all or any proportion of the members shall be elected, it shall not thereafter direct that they shall be appointed, unless a majority of the electors declare that they so desire, or the Governor General in Council, for some reason affecting the public interests, sanctions the direction;

(*b*) except with the approval of the Governor General in Council, or unless salaried officers of the Government are elected, not less than two-thirds of the members of every board shall be persons other than salaried officers of the Government; and

(*c*) not less than one-half of the members of the board shall be landholders in the district.

(*3*) When, under a direction issued under sub-section (*2*), any places on a board are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

12. (*1*) A member of a district board or local board, when appointed by virtue of an office, shall, unless and until the Local Government otherwise directs, continue to be a member of the board while he continues to hold that office. Term of office of members.

(*2*) The term of office of all other elected and appointed members respectively of a district board or local board shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(*3*) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

13. A member of a local board or of a district board may resign by noti- Resignation of members.

fying in writing his intention to do so to the Local Government; and, on the acceptance by the Local Government of such resignation, the member shall be deemed to have vacated his office.

Powers of the Local Government as to removal of members.

14. The Local Government may remove any member of a district board or local board—

(*a*) if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member;

(*b*) if he has been declared by notification to be disqualified for employment in the public service;

(*c*) if he, being a member of a local board, without an excuse sufficient in the opinion of the Local Government, neglects for more than three consecutive months to be present at the meetings of that board, or, being a member of the district board, without such sufficient excuse, neglects for more than six consecutive months to be present at the meetings of that board;

(*d*) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order; or,

(*e*) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

Filling of casual vacancies.

15. (*1*) When the place of an elected member of a local board or district board becomes vacant by the resignation or removal of the member or by his death, a new member shall be chosen in accordance with the rules made by the Local Government under this Act to fill the place:

Provided that the Local Government may direct in any such case that the vacancy shall be left unfilled.

(*2*) When the place of a member of a local board or district board appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(*3*) A person chosen or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

Incorporation of district boards.

16. Every district board shall be a body corporate by the name of the district board of its district, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Local Government under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Time for district and

17. The several district boards and local boards constituted under this Act

shall come into existence at such time as the Local Government may, by notification, fix in this behalf. local boards coming into existence.

18. (*1*) A member of every district board or local board shall be elected or appointed to be chairman of the board, and shall hold office for such term, not exceeding three years, as the Local Government may, by a rule made under this Act, fix. Chairman.

(*2*) The Local Government shall determine, as regards each board or as regards any class of boards, whether the chairman shall be a person appointed by virtue of his office or by name or be elected.

19. (*1*) A district board or local board may elect one of its members to be vice-chairman. Vice-chairman.

(*2*) A vice-chairman so elected shall hold office for such term as the board may, by rule, fix.

B.—Duties of District and Local Boards.

20. (*1*) The following matters shall, subject to such exceptions and conditions as the Local Government may make and impose, be under the control and administration of each district board within the area subject to its authority:— Duties of district board.

(*a*) the management of all property vested in the district board;

(*b*) the construction, repair and maintenance of public roads and other means of communication;

(*c*) the establishment, management, maintenance and visiting of public hospitals, dispensaries, saráís and schools, and the construction and repair of all buildings connected with these institutions;

(*d*) the training of teachers and the establishment of scholarships;

(*e*) the supply, storage and preservation from pollution of water for drinking, cooking and bathing purposes; and

(*f*) the planting and preservation of trees.

(*2*) The Local Government may direct that any of the following matters shall, subject to such exceptions and conditions as it may make and impose, be under the control and administration of a district board within the area subject to its authority:—

(*g*) the management of any property vested in Her Majesty;

(*h*) the establishment, maintenance, visiting and management of markets, rest-houses, encamping-grounds and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*i*) the construction and repair of embankments, and the supply, storage and control of water for agricultural purposes;

(*j*) the preservation and reclamation of soil, and the drainage and reclamation of swamps;

(*k*) the construction; repair and maintenance of famine preventive works, and the establishment and maintenance of such relief-works, relief-houses and other measures in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(*l*) the registration of births, marriages and deaths;

(*m*) fairs and agricultural shows and industrial exhibitions;

(*n*) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the board by the Local Government; [a] I of 1871.

(*o*) the management of such public ferries as may be entrusted to the charge of the board under section 7 A of the Northern India Ferries Act, 1878, as amended by this Act; XVII of 1878.

(*p*) any other local works or measures likely to promote the health, comfort, convenience and interests of the public or the agricultural or industrial prosperity of the country; and

(*q*) any other matters which the Local Government may declare to be fit and proper matters to be taken under the control and administration of the board.

(*3*) The Local Government may cancel or modify any direction given by it under sub-section (*2*).

(*4*) A district board shall, so far as the funds at its disposal permit, make due provision for all matters placed under its control or administration by or under this section.

Duties of local board.

21. (*1*) The Local Government, or, subject to the control of the Local Government, a district board, may direct that, within the area subject to the authority of a local board, any matter placed under the control and administration of the district board by or under section 20 shall be transferred to the control and administration of the local board.

(*2*) A local board, as the agent of, and subject to the control of, the district board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under sub-section (*1*).

(*3*) It shall be the duty of the district board to enforce the responsibility imposed on a local board by sub-section (*2*).

Limits on expenditure of local board.

22. Except as otherwise provided by this Act, a local board shall not incur expenses or undertake liabilities to any amount exceeding the limit imposed by the district board of its district.

Power for district board to provide.

23. (*1*) If a local board makes default in the performance of any duty imposed on it by or under this Act, the district board may, by order in writing, fix a period for the performance of the duty.

---

[a] See Act XVIII of 1883 amending Act I of 1871.

(*2*) If the duty is not performed within that period, the district board may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

for performance of duty in default of local board.

C.—Joint Committees.

24. A district board may concur with any other district board, or with any municipal committee or with any cantonment-authority, or with more than one such board, committee or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and for delegating to any such joint committee any power which might be exercised by either or any of the boards, committees or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

Joint committees.

D.—Conduct of Business.

25. (*1*) Minutes of the proceedings at each meeting of a district or local board shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in such manner as the Local Government may, from time to time, direct, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the district who pays any rate or tax under this Act.

Record and publication of proceedings.

(*2*) A copy of every resolution passed by a local board at a meeting shall, within three days from the date of the meeting, be forwarded to the district board and to the Deputy Commissioner.

(*3*) A copy of every resolution passed by a district board at a meeting shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

26. Every district board, and every local board with the sanction of the district board, may make rules as to—

Power to make rules as to business and affairs.

(*a*) the time and place of its meetings and the manner in which notice of meetings shall be given;

(*b*) the conduct of proceedings at meetings and the adjournment of meetings;

(*c*) the custody of the common seal and the purposes for which it shall be used;

(*d*) the division of duties amongst its members;

(*e*) the powers to be exercised by sub-committees or members to whom particular duties have been assigned;

(*f*) the persons by whom receipts shall be granted for money received under this Act;

(*g*) the duties, appointment, leave, suspension and removal of the officers and servants of the board;

(*h*) the term for which the vice-chairman shall hold office; and

(*i*) other similar matters:

Provided that every rule made under this section must be consistent with this Act and with any rules made by the Local Government under this Act, and shall be published in such manner as the Local Government may direct.

E.—Officers and Servants.

Employment of officers and servants.

27. (*1*) Subject to the provisions of this Act and to any rules which may be made under this Act in this behalf, every district board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards acting under it:

Provided that if, at any time, in the opinion of the Deputy Commissioner,—

(*a*) the number of persons employed by a board under this section, or the remuneration assigned by the board to those persons, or to any of them, is excessive, or

(*b*) any such person is unfit for his employment,

the board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of those persons, or, as the case may be, dismiss the unfit person.

(*2*) The board may appeal against any requirement under this section to the Commissioner of the division, whose decision shall be final.

Pensions of Government officials serving boards.

28. In the case of a Government official, a district board may—

(*1*) if his services are wholly lent to it, contribute to his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(*2*) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

29. In the case of an officer or servant, not being a Government official referred to in section 28, a district board may—

(*1*) grant him leave-allowances and, if he is employed under the district committee when this Act comes into force and not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and

(*2*) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension or gratuity and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement;

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for

the time being in force, the servant would be entitled if the service had been service under the Government.

F.—Taxation and Finance.

Powers of taxation conferred on district boards.

30. Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a district board may impose, in manner prescribed by section 31, such taxes as may be approved by the Local Government:

Provided that no such tax shall be imposed in respect of any property subject to the local rate.

Procedure in imposing taxes.

31. (*1*) A district board may resolve, at a meeting, convened and constituted in such manner as the Local Government may prescribe, to propose the imposition of any tax under section 30.

(*2*) When a resolution has been passed under sub-section (*1*), the board shall publish a notice defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(*3*) Any person likely to be directly affected by the proposed tax, and objecting to the same, may, within thirty days from the publication of the notice, send his objection in writing to the board; and the board shall, at a meeting convened and constituted as aforesaid, take his objection into consideration.

(*4*) If no objection is sent within the said period of thirty days, or if the objections received, having been considered as aforesaid, are deemed insufficient, the board may submit its proposals to the Local Government, with the objections (if any) which have been sent in and with its decision thereon.

(*5*) The Local Government, on receiving proposals under sub-section (*4*), may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(*6*) When the proposals of a district board in respect of a tax have been sanctioned by the Local Government, the board may, at a meeting convened and constituted as aforesaid, direct the imposition of the tax in accordance with those proposals:

Provided that, in giving such direction, the board shall fix a date not less than one month from the date of the meeting on which the tax shall come into force.

(*7*) Every direction under sub-section (*6*) shall be notified, and the notification shall be conclusive evidence that the tax has been imposed in accordance with law.

Reduction and abolition of tax.

32. The Local Government may, by notification, and the district board may, with the sanction of the Local Government, by a resolution passed at a meeting convened and constituted as the Local Government may prescribe, abolish or reduce any tax imposed under sections 30 and 31.

Levy of fees.

33. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, a district board or local board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the works specified in section 20, clauses (*c*), (*e*), (*h*), (*i*) and (*j*), and fees at fairs, agricultural shows and industrial exhibitions held under its authority.

Additional funds to be provided by the Government.

34. When the control and administration of any matter is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government shall, from time to time, allot to the district board such funds, or place at the disposal of the board such sources of income, as may, in the opinion of the Local Government and of the board, be sufficient for maintaining the control and administration of the said matter in the state of efficiency existing at the date of transfer.

District fund.

35. There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof—

(*a*) the balance (if any) of the allotments made for the district under section 7 of the Punjab Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district on the day on which the district board comes into existence; V of 1878.

(*b*) all proceeds of rates allotted to the district board under section 9;

(*c*) the proceeds of all taxes imposed in the district under sections 30 and 31;

(*d*) the amount of all fees levied by the district board or by local boards in the district under section 33;

(*e*) all funds allotted to the district board and the income arising from all sources of income placed at its disposal under section 34;

(*f*) all rents and profits accruing from property vested in the district board or managed by the district board or a local board in the district;

(*g*) all sums contributed to the fund by Government or by any committee, board or private person;

(*h*) all sums received by the district board or by a local board in the district in the discharge of functions exercised by it under this Act; and

(*i*) the proceeds of all sources of income which the Local Government may order to be placed at the disposal of the district board:

Provided that the Local Government may revoke any order made under clause (*i*).

Vesting, custody and investment of district fund.

36. (*1*) The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury or sub-treasury or in the bank to which the Government treasury business has been made over, unless the Local Government in any cases otherwise permits.

(*2*) Subject to such rules as the Governor General in Council may make in this behalf, the district board may, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the same nature, or dispose of them. The income resulting from the securities, and the proceeds of the sale of the same, shall be credited to the district fund.

Application of district fund.

37. (*1*) The district fund shall be charged with the payment of the expenses of the district-post, the payment of the expenses of pauper lunatics sent to public asylums from the area under the authority of the district board, the expenses incurred in auditing the accounts of the district boards and local boards, and such portion of the cost of the Provincial Departments for education, sanitation, vaccination, medical relief and public works as may be held by the Local Government to be equitably debitable to the district board in return for services rendered to the board by those Departments.

(*2*) Subject to the charges specified in sub-section (*1*), and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the board or otherwise, the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the matters specified in sections 20, 27, 28 and 29, and to the provision of grants-in-aid to educational and medical institutions, within the area subject to the authority of the district board, and, with the sanction of the Commissioner, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Works or undertakings benefiting several districts.

38. In the case of works or undertakings which benefit more districts than one, when the district boards cannot agree, the Commissioner or Commissioners of the division or divisions or, when the districts are in different divisions and the Commissioners cannot agree, the Local Government may determine what proportion of the expenses of the work or undertaking shall be borne by each of the district funds of the districts benefited thereby; and such proportion shall be payable out of the several district funds accordingly.

Annual estimates of income and expenditure of district boards.

39. (*1*) Every district board shall appoint a finance committee consisting of not less than three of its members.

(*2*) Every district board shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the board an estimate of the income and expenditure of the board for the next financial year, in such form as the Local Government may, by a rule made under this Act, prescribe.

(*3*) The board shall consider the estimate, and may provisionally approve of it with or without modification.

(*4*) The board shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the Deputy Commissioner.

(*5*) The Deputy Commissioner shall, on or before a prescribed day, signify

in writing to the board his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection. The board shall then consider the matter, and either modify the estimate, so as to remove the objection, or refer it through the Deputy Commissioner to the Commissioner of the division. If the Commissioner concurs in the objection, he shall make such modification in the estimate as may, in his judgment, be necessary to remove the objection in whole or in part. If he does not concur in the objection, he shall pass the estimate, and his order shall be final and binding on the board.

(*6*) When the Deputy Commissioner has signified his approval of an estimate, or the board has modified an estimate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in sub-section (*5*), no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Deputy Commissioner.

(*7*) When the Deputy Commissioner is a member of the district board, the Commissioner and the Local Government shall take the place of the Deputy Commissioner and the Commissioner respectively for the purposes of this section.

Accounts of district boards.

40. Accounts of the receipts and expenditure of every district board shall be made up periodically to such days and in such form as the Local Government prescribes, and shall be examined and audited as soon as may be after they are so made up by such persons as the Local Government appoints in this behalf.

Estimates and accounts of local boards.

41. (*1*) Every local board shall submit annually to the district board of its district, on or before such date as the district board may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the local board for the coming financial year, and shall submit, as often as the district board may require, accounts of its receipts and expenditure.

(*2*) The district board shall signify in writing to the local board its approval or disapproval of an estimate submitted under this section, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 39, clauses (*5*) and (*6*), shall be exercised, in regard to the estimate, by the district board and the Deputy Commissioner or (when the Deputy Commissioner is a member of the district board) the Commissioner, respectively:

Provided that, during the currency of any financial year, the Deputy Commissioner may sanction transfers of provision within the estimate finally approved, when inconvenience or undue delay would be caused by a previous reference to the district board.

(*3*) The district board shall make arrangements, subject to the approval of the Deputy Commissioner, for the examination and audit of accounts submitted to it under this section, and may arrange for the publication of such accounts.

42. Every district board shall cause a copy of every annual estimate provisionally or finally approved under section 39, and of every account made up under section 40, to be kept at its office; and any person paying rates or taxes under this Act may, at all reasonable times, inspect any such estimate or account without payment of any fee. **Inspection of estimates and accounts.**

43. A statement of the accounts of a district board for each financial year, showing the income of the district fund under each head of receipt, the charges for establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared by the board in such form as the Local Government prescribes; and an abstract of the same shall be published in the English and Vernacular official Gazettes, or in such other manner as the Local Government may direct. **Publication of abstract of accounts.**

G.—Control.

44. (*1*) The Commissioner of the division, or the Deputy Commissioner of the district when he is not a member of the district board, may— **Control of Commissioner and Deputy Commissioner over boards and joint committees.**

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any local board, district board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(*b*) by order in writing call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits;

(*c*) by order in writing require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(*2*) If any difference of opinion arises between officers exercising the powers conferred by sub-section (*1*), it shall be referred—

(*a*) if it arises between two or more Deputy Commissioners in the same division—to the Commissioner; and

(*b*) if it arises between two or more Deputy Commissioners in different divisions or between two or more Commissioners—to the Local Government;

and the decision thereon of the Commissioner or of the Local Government, as the case may be, shall be final.

45. The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of a district board or **Power to suspend action.**

local board or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body or persons.

Extraordinary powers of Deputy Commissioner in case of emergency.

46. (*1*) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a district board or local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the district board.

(*2*) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance in priority to all other charges against the same.

Power to provide for performance of duties in case of default of board.

47. (*1*) When the Commissioner, after due enquiry, is satisfied that a district board has made default in performing any duty imposed upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty, and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the board to that person.

(*2*) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance in priority to all other charges against the same.

Power to invest other officers with power of control.

48. When the control and administration of any public work is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government may invest any officer with respect to that work with the powers of a Commissioner under section 44 or section 47, or with the powers of a Deputy Commissioner under section 46.

Report of action under preceding sections.

49. When the Commissioner makes any order under section 45 or section 47, he shall forthwith forward to the Local Government, and when the Deputy Commissioner makes any order under section 45 or section 46, or an officer empowered under section 48 makes any order under section 46 or section 47, he shall forthwith forward to the Commissioner, for submission to the Local Government, a copy of the order, with a statement of the reasons for making it, and with such explanation, if any, as the board or committee concerned may wish to offer. The Local Government may thereupon confirm, modify or rescind the order.

Powers of Local Government and

50. (*1*) It shall be the duty of the Local Government and of all Commissioners and Deputy Commissioners acting under its orders to require that the

proceedings of district boards and local boards shall be in conformity with law, and with the rules in force thereunder. its officers over boards.

(*2*) The Local Government may exercise all powers necessary for the purpose of sub-section (*1*), and may, amongst other things, by order in writing, annul any proceeding which it considers not to be in conformity with law and with the said rules.

(*3*) The Commissioner of the division and the Deputy Commissioner of the district may, within their jurisdiction, for the same purpose, exercise such powers as may be conferred upon them by rules made in this behalf by the Local Government.

51. If a district board or local board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by notification, in which the reasons for so doing shall be stated, declare the board to be superseded : Power of Local Government to supersede the board in case of incompetency, persistent default or abuse of powers.

Provided that, in case of public emergency, the notification may be issued without the previous approval of the Governor General in Council, but shall be immediately reported to the Governor General in Council and shall be subject to his orders.

52. When a district board or local board is superseded under section 51, the following consequences shall ensue :— Consequences of supersession.

(*a*) all members of the board shall from the date of the notification vacate their offices as such members :

(*b*) all powers and duties of the board may, until the board is re-constituted, be exercised and performed by such person as the Local Government appoints in that behalf :

(*c*) where a district board is superseded, all property vested in it shall, until it is re-constituted, vest in Her Majesty.

53. (*1*) When a district board is superseded, the Local Government shall, as soon as in its judgment conveniently may be, constitute another district board in its place. Constitution of new board, and transfer of functions of superseded local boards.

(*2*) When a local board is superseded, the Local Government may either constitute another local board in its place, or transfer its functions to the district board or, by a notification under section 10, to any other local board.

54. (*1*) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more boards constituted under this Act, or between a municipal committee or cantonment-authority and any such board, the matter shall be referred— Disputes.

(*a*) to the Deputy Commissioner, if the local authorities concerned are in the same district

(*b*) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts ; and

(*c*) to the Local Government, if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(*2*) The decision of the authority to which any dispute is referred under this section shall be final.

(*3*) If, in the case mentioned in clause (*a*), the Deputy Commissioner is a member of one of the boards or committees concerned, his functions under this section shall be discharged by the Commissioner.

(*4*) "Local authority" in this section means a district board, local board, municipal committee or cantonment-authority.

Power of the Governor General in Council and the Local Government to make rules.

55. So far as may be consistent with the provisions of this Act—

(1) the Governor General in Council may—

(*a*) make general rules or special orders for the regulation of taxation under section 30; and

(*b*) make rules regulating the powers of district boards to make, vary and dispose of investments;

(2) the Local Government may, for any district or local board, or any class of such boards, make rules for—

(*c*) dividing boards into classes, and fixing the powers of boards of each class;

(*d*) determining the mode and time of appointment or election of members of boards, the term of office, allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualifications of voters, and generally for regulating all elections under this Act

(*e*) regulating the powers of boards to transfer property;

(*f*) regulating the powers of boards to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;

(*g*) determining the intermediate offices, if any, through which correspondence between boards or members of boards and the Local Government or its officers shall pass;

(*h*) determining the language in which business shall be transacted;

(*i*) the employment, payment, suspension and removal of officers and servants under section 27;

(*j*) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district;

(*k*) the application of district funds;

(*l*) the form of estimates of income and expenditure under section 39;

(*m*) the form of accounts and the manner of periodical audit under section 40;

(*n*) the publication of abstracts of accounts under section 43;

(*o*) the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*p*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*q*) the conduct of proceedings of boards, including the fixing of a quorum, the appointment or election of a chairman, and the term of office of a chairman and vice-chairman;

(*r*) the appointment and payment of auditors of the accounts of boards; and

(*s*) the guidance of district boards when suits or other proceedings are intended to be or have been instituted by or against them in Civil Courts; and

(*t*) generally, determining the relations between district boards and local boards, and guiding boards and Government officers in all matters connected with the carrying out of the provisions of this Act.

All such rules and alterations of rules shall be notified, and no rules or alteration of rules under clause (*2*) (*d*) shall come into operation until three months after they have been notified.

II.—Regulations.

Power to make regulations.

56. (*1*) Every district board or local board empowered in this behalf by the Local Government may make regulations for carrying out all or any of the purposes of this Act.

(*2*) A regulation made under this section shall not have effect until it has been confirmed by the Local Government and published in such manner and for such time as the Local Government may direct.

Penalty for infringement of regulations.

57. (*1*) In making any regulation under section 56, a board may direct that a breach of the same shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

(*2*) In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term which may extend to eight days:

Prosecutions.

58. (*1*) Prosecutions under this Act for breach of regulations may be instituted by any board, or by any person authorized by the board in this behalf.

(*2*) A Judge or Magistrate shall not be deemed to be within the meaning of section 555 of the Code of Criminal Procedure a party to, or personally interested in, any case under this section merely because he is a member of the board.

X of 1882.

I.—Supplemental and Exceptional Provisions.

Liability of members of boards.

59. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a local board or of the district board, and a suit for compensation for the same may be instituted against him, in such Court as the Local Government directs, by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Procedure for making rules and regulations.

60. (*1*) The Local Government, before making any rules under section 55 or section 67, and a district or local board, before making any regulations under section 56, shall publish, in such manner as the Local Government may deem sufficient for giving information to persons interested, a draft of the proposed rules or regulations, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules or regulations, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*2*) Every such rule or regulation shall be published in the official Gazette in English and in such other language as the Local Government directs, and such publication shall be conclusive evidence that the rule or regulation has been made as required by this section.

Acquisition of land.

61. Where any land is required for the purposes of this Act, the Local Government may, at the request of a district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board. X of 1870.

Penalty on member, officer or servant being interested in contracts made with a board or joint committee.

62. (*1*) If any member, officer or servant of a district or local board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that board or joint committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168. XLV of 1860.

(*2*) A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and a board or committee; but he shall not take part in any proceedings of the board or committee relating to any such contract.

Saving of Act XI of 1879.

63. Nothing in this Act shall affect the Local Authorities Loans Act, 1879. XI of 1879.

General powers of Local Government and Commissioners.

64. In all matters connected with this Act, the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

Contracts of local committees.

65. Every contract entered into, whether in its own name or in the name of the Government, by the committee appointed in a district under section 11 of the Punjab Local Rates Act, 1878, may be enforced by and against the district board constituted for that district under this Act, in like manner as it might have been by and against the committee if this Act had not been passed.

V of 1878.

Government officers serving under committees to continue under board.

66. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 17 of this Act shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government.

Power of Local Government to except local area from operation of Act.

67. (*1*) If the circumstances of any district or part of a district are, in the opinion of the Local Government, such that all or any of the provisions of this chapter are unsuited thereto, the Local Government may, by notification in the official Gazette, except the district or part from the operation of those provisions; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a like notification.

(*2*) While any notification under this section is in force, the Local Government may make rules to provide for any matter dealt with by the provisions to which the notification applies.

Committee to be constituted for district wholly excepted from Act.

68. When a district is excepted, under section 67, from all the provisions of this chapter, a committee shall, except where the Local Government for special reasons otherwise directs, be constituted for the control and administration in that district of the matters mentioned in section 20, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine the manner in which the members of the committee shall be appointed and removed, define the functions and authority of the committee, and place at its disposal, subject to such control as the Local Government thinks fit,—

(*a*) the balance standing at the credit of the district fund at the time when the district is excepted or, as the case may be, the balance of the allotments made for the district under section 7 of the Punjab Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district at that time;

(*b*) all proceeds of rates which, but for the district being excepted, would be allotted to the district board under section 9 of this Act; and

(*c*) such other sources of income mentioned in section 35 of this Act as the Local Government thinks fit:

Provided that not less than one-half of the members of the committee shall be persons who own landed property or reside or carry on trade or business in the district and are not servants of the Government.

Power to direct that Act XX of 1856

69. (*1*) When any local area in which Act XX of 1856[a] (*An Act to make*

[a] For places in which Act XX of 1856 is in force, see *supra*, p. 15.

shall cease to be in force.

better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal) is in force, is included in any local area over which a district board established under this Act has authority, the Local Government may, by notification, direct that that Act shall cease to be in force in the local area so included, and that every panchâyat constituted under that Act for that local area shall cease to exist.

(*2*) When a direction is issued under this section in respect of any local area in which the said Act XX of 1856 is in force, the amount, if any, then available under section 36 of that Act for purposes of improvement in that local area shall be expended therein by the Deputy Commissioner for such purposes.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS AS TO TAXATION.

Recovery of rates.

70. All rates and taxes imposed under this Act, and all arrears of such rates and taxes, may be recovered as if they were arrears of land-revenue.

Local rate or tax how to be assessed and collected.

71. (*1*) The Local Government may, by notification, determine the persons by whom the local rate or any tax imposed under this Act shall be assessed and collected, and make rules for the assessment and collection of the rate or tax, and direct in what manner persons employed in the assessment or collection shall be remunerated.

(*2*) The provisions of section 60 shall apply to all rules made under this section.

Appeals.

72. (*1*) In matters connected with the assessment and collection of any rate or tax leviable under this Act, an appeal shall lie from the order of any person authorized under this Act to make assessments or collections, to such person as the Local Government appoints:

Provided that the appeal shall be presented within 30 days from the date of the order.

(*2*) The order passed on an appeal under this section shall be final.

Instalments of rates and taxes.

73. (*1*) The Local Government may, by notification, prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable:

Provided that every instalment of the local rate leviable under section 5 shall be payable with an instalment of the land-revenue.

(*2*) In any local area subject to the authority of a district board, the Local Government may, by notification, delegate to the board, subject to such conditions as it thinks fit, its powers under this section.

Power of Local Government to exempt from taxation.

74. The Local Government may, by notification, remit or reduce any rate or tax imposed under this Act, or exempt any person or class of persons, or any description of property, wholly or in any part, from liability to any such rate or tax, and cancel any such remission, reduction or exemption.

Power to direct measurements.

75. When measurements are necessary for the assessment of the local rate or of any tax imposed under this Act, the Local Government may, by notification, direct such measurements to be made.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

76. Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate or tax imposed under this Act, and suits on account of illegal exaction of any such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government otherwise directs, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Confirmation and recovery of existing rates.

77. All rates for the maintenance of roads, schools or the district-post, for the payment of which provision has been made in any settlement-record previous to the passing of this Act, or which have been habitually levied by Government, shall be deemed to have been and to be legally imposed, and to have been and to be legally recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.

CHAPTER V.

Amendment of the Northern India Ferries Act, 1878.

XVII of 1878.

Amendment of Act XVII, 1878.

78. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely :—

7A. [*Vide supra, p. 118.*]

Further Amendment.

79. In section 6 of the same Act, after the words "section 7," and in section 17 of the same Act, after the words "section 7" where they first occur, the following shall be inserted, namely :—"and section 7 A."

THE PUNJAB MUNICIPAL ACT, 1884.

CONTENTS.

CHAPTER I.

Preliminary.

Sections.

1. Short title. Local extent. Commencement.
2. Definitions.
3. Procedure for constituting municipality.
4. Special rule as to local areas to which Act IV of 1873 applies.

CHAPTER II.

Organization of Committees.

Constitution of Committees.

Sections.

5. Number and appointment or election of members.
6. Term of office of members.
7. Resignation of members.
8. Powers of the Local Government as to removal of members.
9. Filling of casual vacancies.
10. Incorporation of committee.
11. Time when committee shall come into existence.
12. Consequences of establishment of committee under this Act where Act IV of 1873 applies.
13. Member of committee to be municipal commissioner.

President and Vice-president.

14. Election or appointment of president and vice-president.
15. Term of office of president and vice-president.
16. Casual vacancies in office of president or vice-president.

Notification of Elections, Appointments, &c.

17. Notification of elections, appointments and vacancies.

Conduct of Business.

18. Time for holding meetings.
19. Ordinary and special meetings.
20. Quorum.
21. Chairman of meeting.
22. Vote of majority decisive.
23. Record and publication of proceedings.
24. Rules of business.
25. Extraordinary powers of president and vice-president in case of emergency.

Joint Committees.

26. Joint committees.

Defects in Constitution and Irregularities.

27. Vacancies and irregularities not to invalidate proceedings.

Officers and Servants.

28. Appointment of secretary.
29. Employment of other officers and servants.
30. Power to prevent extravagance in establishments.
31. Pensions of Government officials serving committees.
32. Pensions of others.

Contracts.

SECTIONS.

33. Authority to contract.
34. Mode of executing contracts and transfers of property.
35. Penalty on member, officer or servant being interested in contract made with a committee.

Privileges and Liabilities.

36. Suits against committee and its officers.
37. Liability of members of committees.

Acquisition of Land.

38. Acquisition of land.

CHAPTER III.

TAXATION.

General Provisions.

39. Taxes which may be imposed.
40. Scavenging-tax.
41. Water-tax.
42. Procedure in imposing taxes.
43. Power to abolish or reduce tax.
44. Power to exempt from taxation.
45. Power for Local Government to suspend levy of tax.
46. Taxes not invalid for defect of form.
47. Taxes when payable.
48. Receipts to be given.
49. Appeals against taxation.
50. Limitation of appeal.
51. Taxation not to be questioned except under this Act.
52. Taxes leviable under Act IV of 1873 to be deemed to be taxes under this Act.

Taxes on Immoveable Property.

53. Preparation of assessment-lists.
54. Publication of notice of assessments.
55. Public notice of time fixed for revising assessment-list.
56. Settlement of list.
57. Further amendments of assessment-list.
58. New list need not be prepared every year.
59. Remission of tax on unoccupied immoveable property.
60. Taxes on immoveable property by whom payable.
61. Recovery of taxes payable by owner.

Octroi and Tolls.

62. Power to search where octroi is leviable.
63. Power to examine article liable to octroi.

SECTIONS.

64. Presentation of bill for octroi.
65. Recovery of octroi and tolls.
66. Power to lease the collection of octroi or tolls.

CHAPTER IV.

MUNICIPAL FUND AND PROPERTY.

67. Constitution of municipal fund.
68. Application of fund.
69. Custody of municipal fund.
70. Investment of same.
71. Property vested in committee.
72. Management of public institutions.
73. Transfer to Crown of property vesting in committee.

CHAPTER V.

MUNICIPAL POLICE.

74. Police-establishment.
75. Relief of committee from police-charges.
76. Appointment, liabilities and duties of municipal watchmen.
77. Duties of municipal police enrolled under Act V of 1861.
78. Powers and duties of police in respect of offences against Act and rules, and assistance to municipal authorities.
79. Saving of section 9 of Act III of 1880.
80. Police-protection at fairs, &c.

CHAPTER VI.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

81. Power to acquire land for new streets and building-sites adjoining them.
82. Power to close streets.
83. Power to permit temporary occupation of streets, &c.
84. Power to attach brackets for lamps.
85. Names of streets and numbers of buildings.
86. Roofs and external walls not to be made of inflammable materials.
87. Power to regulate line of buildings.
88. Notice of new buildings.
89. Removal of projections and obstructions.

Bathing and Washing Places.

90. Bathing and washing places.

Deposit of Offensive Matter and Slaughter-places.

SECTIONS.

91. Removal and deposit of offensive matter.
92. Places for slaughter of animals.

Burial and Burning Places.

93. Powers in respect of burial and burning places.
94. Routes for removal of corpses.

Inflammable Materials.

95. Inflammable materials.

Powers of Entry and Inspection.

96. Inspection of drains, privies and cesspools.
97. Power to enter and inspect buildings, &c.
98. Other powers of entry on buildings or land.
99. Power to enter for discovery of vehicles or animals liable to taxation.
100. Power to inspect places used for sale of food or drink, &c., and to seize unwholesome articles exposed for sale.
101. Power of entry for purpose of scavenging.
102. Precautions to be observed in entering dwelling.

Water-pipes, Privies and Drains.

103. Troughs and pipes for rain-water.
104. Provision of privies, &c.
105. Repair and closing of drains, privies and cesspools.
106. Unauthorised buildings over drains, &c.
107. Removal of latrines, &c., near any source of water-supply.
108. Power to require drainage, &c., of unwholesome tanks, &c.

Dangerous Buildings and Places.

109. Power to require buildings, wells, tanks, &c., to be secured.
110. Buildings, &c., in ruinous or dangerous state.

Buildings and Grounds in unsanitary Condition.

111. Power to require owner to clear away noxious vegetation.
112. Power to trim hedges and trees bordering on streets, wells, &c.
113. Cleansing of filthy buildings or land.
114. Power to prohibit use for human habitation of buildings unfit for such use.
115. Power to require untenanted buildings becoming a nuisance to be secured or enclosed.
116. Cultivation, use of manure or irrigation injurious to health may be prohibited.

Offensive and Dangerous Trades.

117. Regulation of offensive and dangerous trades.
118. Power to prohibit such trades.

Power to make Rules.

119. Power to make rules.

SECTIONS.

120. Additional power to make rules in hill municipalities.
121. Penalty for infringement of rules.
122. Confirmation of rules.

Supplemental.

123. Execution of acts required to be done by any notice.
124. Recovery of costs of execution.
125. Compensation out of municipal fund.
126. Appeals against certain orders of committee.

CHAPTER VII.

OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY OR CONVENIENCE.

127. Penalty for depositing earth or offensive matter on roads or into drains.
128. Penalty for causing or allowing sewage to flow upon a public place.
129. Penalty for non-removal of filth, &c.
130. Penalty for making or altering drains without authority.
131. Penalty for making or keeping latrines, &c., near any source of water-supply.
132. Penalty for keeping animals so as to be injurious to health.
133 Penalty for feeding certain animals on deleterious substances.
134. Penalty for driving vehicles without proper lights.
135. Penalty for discharging firearms, &c.
136. Penalty for non-removal of elephants or camels on approach of a horse.
137. Penalty for taking elephants along public roads.
138. Penalty for suffering dogs to be at large.
139. Penalty for altering, obstructing or encroaching upon streets, &c.
140. Penalty for quarrying, cutting timber or building.
141. Penalty for picketing animals and collecting carts.
142. Penalty for carrying corpses by prohibited routes.
143. Penalty for disturbing direction-posts, lamp-posts, &c.
144. Penalty for disobedience to orders of committee not punishable under any other section.
145. Prosecution to be suspended in certain cases.

CHAPTER VIII.

CONTROL.

146. Control by Commissioner and Deputy Commissioner.
147. Power to suspend action of committee.
148. Extraordinary powers of Deputy Commisssioner in case of emergency.
149. Power to provide for performance of duties in case of default of committee.
150. Action of Deputy Commissioner or Commissioner to be immediately reported.
151. Powers of Local Government and its officers over committees.
152. Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.

SECTIONS.

153. Disputes.
154. Power of Local Government to frame forms and make rules.
155. General powers of Local Government and Commissioners.

CHAPTER IX.

SUPPLEMENTAL.

Prosecutions.

156. Authority for prosecutions.
157. Judge being a member not to be deemed interested in prosecution.
158. Saving of prosecutions under other laws.

Rules.

159. Procedure for making rules.
160. Rules to be available for purchase and inspection.
161. Continuance of existing rules.

Notices.

162. Authentication, service and validity of notices.
163. Mode of giving notice to owner or occupier who is unknown.
164. Publication of public notices.

Alteration of Boundaries and Class of Municipality.

165. Notification of intention to alter limits of municipality.
166. Alteration of limits of municipality.
167. Effect of exclusion of local area from municipality.
168. Effect of including local area in municipality.
169. Power to change class of municipality.

Powers to except and withdraw Municipalities from provisions of Act.

170. Power to except municipality from provisions of Act unsuited thereto.
171. Power to withdraw municipal area altogether from operation of this Act or Act IV of 1873.

Miscellaneous.

172. Recovery of taxes, &c.
173. Powers of Governor General in Council and of Local Government exerciseable from time to time.
174. Relief to agents and trustees.
175. Decision of question as to whether persons are "inhabitants."
176. Saving of Act XI of 1879.

Simla Land-tax.

177. Simla land-tax continued.

SCHEDULE.

ACT No. XIII OF 1884.

Received the Governor General's assent on the 22nd August, 1884.

An Act to make better provision for the organization and administration of Municipalities in the Punjab.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Punjab; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

Local extent.

Commencement.

1. (*1*) This Act may be called the Punjab Municipal Act, 1884.

(*2*) It extends only to the territories for the time being administered by the Lieutenant-Governor of the Punjab; and

(*3*) Section 177 shall come into force at once, and the rest of this Act shall come into force on such date as the Local Government may, by notification in the official Gazette, fix in this behalf.[a]

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"committee" means a municipal committee constituted under this Act:

"municipality" means any local area declared to be a municipality under this Act:

"inhabitant" includes any person ordinarily residing or carrying on business, or owning or occupying immoveable property, in any local area which is declared to be a municipality under this Act or which the Local Government has by notification proposed to declare a municipality under this Act:

"street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way; and also the roadway and footway over any public bridge or causeway:

"owner" includes the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or who would so receive the same if the land or building were let to a tenant:

"notification" means a notification published by authority of the Local Government in the official Gazette:

"notified" means published as aforesaid.

Procedure for constituting municipality.

3. (*1*) The Local Government may, by notification, propose to declare any town or group of towns, together with any railway-station, village, building or land in the vicinity of any such town, a municipality under this Act:

Provided that a military cantonment shall not, without the consent of the Governor General in Council, be comprised in any such notification.

---

[a] The rest of the Act came into force on the 15th September, 1884, see Notification No. 667, *Punjab Gazette*, 11th September, 1884, Part I, p 888.

(*2*) Every such notification shall define the limits of the local area to which it relates.

(*3*) A copy of every notification under this section, with a translation in such vernacular language as the Local Government directs, shall be affixed in some conspicuous place in the court-house of the district in which the local area to which it relates is situate, and in one or more conspicuous places in that local area.

(*4*) The Deputy Commissioner shall certify to the Local Government the date on which the copy and translation were so affixed, and the date so certified shall be deemed to be the date of publication of the notification.

(*5*) If any inhabitant objects to the notification issued under sub-section (*1*), he may, within six weeks from the date of its publication, submit his objection in writing through the Deputy Commissioner to the Local Government; and the Local Government shall take his objection into consideration.

(*6*) When six weeks from the date of the publication have expired, and the Local Government has considered and passed orders on any such objections which may have been submitted to it, the Local Government may, by notification, declare the local area to be, for the purposes of this Act, a municipality of the first or second class.

Special rule as to local areas to which Act IV of 1873 applies.

IV of 1873.

*4. (*1*) The Local Government may, by notification, declare any local area to which the Punjab Municipal Act, 1873, has been extended to be a municipality under this Act, and shall, as soon as may be, so declare every such local area, unless—

(*a*) that local area is comprised in some local area declared to be a municipality under section 3; or

(*b*) the Local Government has declared, by notification, that the provisions of this Act are unsuited to that local area.

(*2*) The Local Government shall, by the notification issued in respect of a local area under sub-section (*1*), declare whether the local area shall be a municipality of the first or of the second class.

---

* The following local areas, to which Act IV of 1873 applied, have been declared Municipalities under this Act:—

Delhi, Sonepat, Ballabgarh, Faridabad, Simla, Umballa, Rupar, Sadhaura, Jagadhri, Shahabad, Buriya, Thaneser, Ladwa, Rewari, Farakhnagar, Palwal, Firozpur, Sahna, Hadal, Rohtak, Jhajjar, Bahadargarh, Gohana, Beri, Tharkhanda, Hissar, Sirsa, Hansi, Bhiwani, Ellenabad, Rania, Rori, Fatehabad, Jullundur, Alawalpur, Nawashahr, Nurmahal, Nakodar, Phillour, Kartarpur, Banga, Rahon, Kangra, Nurpur, Jawalamukhi, Dharmsala, Sujanpur, Haripur, Hoshiarpur, Hariana, Anandpur, Urmar Tanda, Mukirian, Daspyakaithan, Una, Miani, Garhdiwala, Garhshankar, Firozepur, Fazilka, Dharmkot, Zira, Muktsar, Moga, Makhu, Mudki, Ludhiana, Jagraon, Raikot, Mackiwara, Khanna, Lahore, Kasur, Khemkaru, Sharakpur, Patti, Chunnian, Khudian, Dalhousie, Gurdaspur, Batala, Dinanagar, Kalanaur, Pathankot, Sujanpur, Srigobindpur, Derananak, Multan, Shujabad, Jalalpur, Kahrar, Dunnyapur, Talamba, Jhang-cum-Maghiana, Chunot, Amritsar, Taru Taran, Nairowal, Jandiala, Majitha, Kamba, Pakpathan, Montgomery, Murree, Rawalpindi, Attock, Hazro, Pinaigheh, Jhelum, Pind-Dadan Khan, Gujrat, Jalalpur, Kunjah, Dingah, Bhera, Miani, Sahiwal, Kushale, Shahpur, Gujranwala, Rainnagar, Akalgarh, Eminabad, Wazirabad, Pindi Bhattian, Kila Didar Singh, Sialkot, Jamki, Daska-cum-Kot Daska, Zafrawal, Killa Sobha-Singh, Pasrur, Narowal, Dera Ismail Khán, Kulachi, Bhakhar, Leiah, Kahror, Dera Gházi Khán, Jampur, Rajanpur, Mithankot, Dajal-cum-Nawashahra, Edwardesabad, Laki, Isakhel, Kalabagh, Muzaffargarh, Khangarh, Alipur, Khairpur, Peshawar, Haripur, Abottabad, Nawashahr, Baffa and Kohat.

(*3*) The Local Government may, by the notification issued under this section in respect of any local area, direct that the members of the committee for that local area appointed *ex officio*, by nomination and by election under the Punjab Municipal Act, 1873, and then in office, shall, on and from a day fixed by the notification, be deemed respectively to have been appointed by official designation and by name and elected under this Act as members of a committee for the local area, and shall hold office as such members for such term, not exceeding three years, as may be fixed by the notification. IV of 1873.

CHAPTER II.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

Number and appointment or election of members.

5. (*1*) There shall be established for each municipality a committee having authority over the municipality, consisting of such number of members, not less than six, as the Local Government may fix in this behalf.

(*2*) The members may be appointed by the Local Government either by name or by official designation, or may be elected from among the inhabitants in accordance with rules made by the Local Government under this Act, or some may be appointed and some elected, as the Local Government directs:

Provided that—

(*a*) when the Local Government has directed that all or any proportion of the members shall be elected, it shall not thereafter direct that they shall be appointed, unless a majority of the electors declare that they so desire, or for some reason affecting the public interests; and

(*b*) except with the approval of the Governor General in Council, or unless salaried officers of the Government are elected, not less than two-thirds of the members of every committee shall be persons other than salaried officers of the Government.

(*3*) When, under a direction issued under sub-section (*2*), any places on a committee are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

Term of office of members.

6. (*1*) A member of a committee when appointed by virtue of an office shall, unless and until the Local Government otherwise directs, continue to be a member of the committee while he continues to hold that office.

(*2*) The term of office of all other appointed and elected members of a committee shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(*3*) An outgoing member may, if otherwise qualified, be again elected or appointed.

7. A member of a committee may resign by signifying in writing his intention to do so to the Local Government; and on the acceptance by the Local Government of the resignation, the member shall be deemed to have vacated his office. Resignation of members.

8. (*1*) The Local Government may remove any member of a committee— Powers of the Local Government as to removal of members.

(*a*) if he refuses to act, or becomes, in the opinion of the Local Government, incapable of acting, or is declared insolvent or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member;

(*b*) if he has been declared by notification to be disqualified for employment in the public service;

(*c*) if he, without an excuse sufficient in the opinion of the Local Government, neglects for more than three consecutive months to be present at the meetings of the committee;

(*d*) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order; or,

(*e*) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

(*2*) A person removed under this section shall be disqualified for election unless and until the Local Government otherwise directs.

9. (*1*) When the place of an elected member of a committee becomes vacant by the resignation or removal of the member or by his death, a new member shall be elected in accordance with the rules made by the Local Government under this Act to fill the place: Filling of casual vacancies.

Provided that the Local Government may direct in any such case that the vacancy shall be left unfilled.

(*2*) When the place of a member of a committee appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(*3*) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may if otherwise qualified be again elected or appointed.

10. Every committee shall be a body corporate by the name of the municipal committee of its municipality, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable; and, subject to the provisions of this Act, to transfer any property held by it, to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name. Incorporation of committee.

11. A committee shall come into existence at such time as the Local Government may, by notification, appoint in this behalf: Time when committee shall come

into existence.

Provided that a committee constituted under section 4, sub-section (*3*), shall come into existence on the day fixed under that sub-section.

Consequences of establishment of committee under this Act where Act IV of 1873 applies.

12. When a committee comes into existence for a municipality constituted under this Act, and that municipality is or comprises within its limits a local area to which the Punjab Municipal Act, 1873, has been extended, the following consequences shall ensue, namely :— IV of 1873

*(*a*) the said Punjab Municipal Act shall cease to apply to the local area ;

(*b*) the municipal committee constituted under that Act for the local area (and hereinafter called the old committee) shall cease to exist ;

(*c*) all property vested in the old committee shall, for the purposes of this Act, vest in the committee constituted under this Act (hereinafter called the new committee), subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property ;

(*d*) every right and liability belonging to or incurred by the old committee may be enforced by or against the new committee in like manner as it might have been enforced by or against the old committee if this Act had not been passed ;

(*e*) a Government officer employed by the old committee at the time when the new committee comes into existence shall be deemed to be similarly employed by the new committee, and shall not be dismissed from that employment without the sanction of the Local Government ; and

(*f*) the new committee shall be substituted for the old committee in all legal proceedings by or against the old committee pending at the time when the new committee comes into existence.

Member of committee to be municipal commissioner.

13. Every member of a committee constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

President and Vice-president.

Election or appointment of president and vice-president.

14. (*1*) Every committee shall, from time to time, elect one of its members to be president, and the member so elected shall, if the election is approved by the Local Government in the case of a first class committee, and by the Commissioner in the case of a second class committee, become president of the committee :

Provided that the committee, instead of electing a president and submitting his name for approval to the Local Government or the Commissioner, may apply to the Local Government or the Commissioner, as the case may be, to appoint a president from among its members, and that the Local Government may, by notification, exclude any committee from the operation of this clause ; and that in either of these cases, or if no election is made within one month from

* The Act has been extended to the local areas to which Act IV of 1873 applied—see footnote on p. 195, and the latter Act has not therefore been reprinted—see Preface, para. 8.

BENGAL SECRETARIAT LIBRARY

the date of the first meeting of the committee or the occurrence of a vacancy in the office of chairman, or if the person elected is not approved, the Local Government, or in the case of a second class committee the Commissioner, may, if it or he thinks fit, appoint one of the members of the committee to be president.

(*2*) Every committee may also, from time to time, elect one or two of its members to be its vice-president or vice-presidents.

Term of office of president and vice-president.

15. (*1*) A president shall hold office for such term, not exceeding three years, as the Local Government may, by rule, fix, and a vice-president shall hold office for such term as the committee may, by rule, fix.

(*2*) A president or vice-president shall vacate office as such when he ceases to be a member of committee, or tenders in writing to the committee his resignation of his office as president or vice-president; and he may be removed from his office by the Local Government if moved to do so by resolution passed by two-thirds of the members present at a special meeting.

(*3*) Every resignation of office tendered under this section shall be reported, as soon as may be, to the Deputy Commissioner.

Casual vacancies in office of president or vice-president.

16. (*1*) If a president or vice-president ceases to be a member of the committee, dies, resigns his office or is removed, a new president or vice-president shall be elected or appointed in manner provided by section 14.

(*2*) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

(*3*) A person going out of office under sub-section (*2*) may, if otherwise qualified, be again elected or appointed.

Notification of Elections, Appointments, &c.

Notification of elections, appointments and vacancies.

17. Every election and appointment of a member or president of a committee, and every vacancy in the office of member or president arising otherwise than by the expiration of his term of office, shall be notified, and no such election or appointment shall take effect until it is notified.

Conduct of Business.

Time for holding meetings.

18. (*1*) A committee shall meet for the transaction of business at least once in every month at such time as may, from time to time, be fixed by the rules made under section 24.

(*2*) The president or, in his absence, a vice-president may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the members of the committee, convene either an ordinary or a special meeting at any other time.

Ordinary and special meetings.

19. (*1*) A meeting of a committee shall be either ordinary or special.

(*2*) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

20. (*1*) The quorum necessary for the transaction of business at a special meeting of a committee shall be one-half of the committee.

(*2*) The quorum necessary for the transaction of business at an ordinary meeting of a committee shall be such number or proportion of the members of the committee as may, from time to time, be fixed by the rules made under section 24, but shall not be less than three:

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

Chairman of meeting.

21. (*1*) At every meeting of a committee the president, if present, shall preside as chairman.

(*2*) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting, and a vice-president is present, the vice-president or, when two vice-presidents are present, the senior of them by date of appointment, shall preside as chairman.

(*3*) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Vote of majority decisive.

22. Except as otherwise provided by this Act or by rules made under this Act, all questions which come before any meeting of a committee shall be decided by a majority of the votes of the members present, the chairman of the meeting, in case of an equality of votes, having a second or casting vote.

Record and publication of proceedings.

23. (*1*) Minutes of the proceedings at each meeting of committee shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in such manner as the Local Government directs, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant.

(*2*) A copy of every resolution passed by a committee at a meeting shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

Rules of business.

24. (*1*) Every committee may, from time to time, at a special meeting, make rules consistent with this Act and with any rules made by the Local Government under this Act as to—

(*a*) the time and place of its meetings;

(*b*) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given;

(*c*) the quorum necessary for the transaction of business at ordinary meetings;

(*d*) the conduct of proceedings at meetings and the adjournment of meetings;

(*e*) the custody of the common seal and the purposes for which it shall be used;

(*f*) the person or persons to be primarily responsible for the current executive administration and their powers; that is to say, what portion of the executive authority shall be exercised by the president, by a vice-president, by sub-committees, by individual members, and by officers or servants of the committee;

(*g*) the persons by whom receipts shall be granted on behalf of the committee for money received under this Act;

(*h*) the appointment, duties, leave, suspension and removal of its officers and servants;

(*i*) the term for which a vice-president shall hold office; and

(*j*) all other similar matters.

(*2*) A rule made under clause (*c*) or clause (*f*) of sub-section (*1*) shall not take effect unless it has been approved by the Local Government.

(*3*) Every rule made under this section shall be published in such manner as the Local Government directs.

Extraordinary powers of president and vice-president in case of emergency.

25. In cases of emergency the president, or in his absence a vice-president, may direct the execution of any work or the doing of any act, which the committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid from the municipal fund:

Provided that—

(*a*) he shall not act under this section in contravention of any order of the committee passed at a meeting; and

(*b*) where he acts under this section, he shall report his proceedings to the next following meeting of the committee.

Joint Committees.

Joint committees.

26. A committee may concur with any other committee, or with any district board, or with any cantonment-authority, or with more than one such committee, board or authority, in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in delegating to any such joint committee any power which might be exercised by either or any of the committees, boards or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

Defects in Constitution and Irregularities.

Vacancies and irregu-

27. Anything done or any proceeding taken under this Act shall not be

larities not to invalidate proceedings.

questioned on account of any vacancy in a committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

Officers and Servants.

Appointment of secretary.

28. (*1*) Every committee shall, from time to time, at a special meeting, appoint one of its members, or, if the Commissioner consents to its appointing a person not being a member, any other person, to be its secretary, and may, at a like meeting, remove any person so appointed.

(*2*) A member of a committee appointed as secretary shall receive no remuneration in respect of his services. When any other person is appointed to be secretary, the committee may, with the previous sanction of the commissioner, assign to him such pay as it thinks fit.

Employment of other officers and servants.

29. Subject to the other provisions of this Act, and to such rules as the Local Government may make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a committee may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

Power to prevent extravagance in establishments.

30. If, in the opinion of the Commissioner, the number of persons employed by a committee as officers or servants, or whom the committee propose to employ as such, or the remuneration assigned by the committee to those persons or any of them, is excessive, the committee shall, on the requirement of the Commissioner, reduce the number of those persons or the remuneration, as the case may be:

Provided that the committee may appeal against any such requirement to the Local Government, and the decision of the Local Government on any such appeal shall be final.

Pensions of Government officials serving committees.

31. In the case of a Government official, a committee may—

(*1*) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(*2*) if he devotes only a part of his time to the performance of duties in behalf of the committee, make a contribution on account of his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of others.

32. In the case of an officer or servant not being a Government official, a committee may—

(*1*) grant him leave-allowances and, if he is employed under the committee appointed under the Punjab Municipal Act, 1873,[a] when this Act comes into force, and is not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and IV of 1873.

[a] Act IV of 1873 was superseded by this Act, see s. 12, cl. (*a*), *supra*, p. 198.

(*2*) if empowered in this behalf by the Local Government—

(*a*) subscribe on his behalf for pension or gratuity under the rules of the Government Civil Pension Code for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the officer or servant would be entitled if the service had been service under Government.

Contracts.

Authority to contract.

33. (*1*) The committee of a municipality of the first class may, subject to the provisions of this Act, delegate to one or more of its members the power of entering, on its behalf, into any particular contract whereof the value or amount does not exceed five hundred rupees, or into any class of such contracts.

(*2*) No contract by or in behalf of any committee whereof the value or amount exceeds five hundred rupees shall be entered into until it has been sanctioned at a meeting of a committee.

Mode of executing contracts and transfers of property.

34. (*1*) Every contract made by or on behalf of the committee of a municipality of the first class whereof the value or amount exceeds one hundred rupees, and every contract made by or on behalf of the committee of a municipality of the second class whereof the value or amount exceeds fifty rupees, shall be in writing, and shall be signed by the president or vice-president, and by the secretary if he is a member of the committee, or, if the secretary is not a member of the committee, by another member:

Provided that, when the power of entering into any contract on behalf of the committee has been delegated under the last preceding section, the signature or signatures of the member or members to whom the power has been delegated shall be sufficient.

(*2*) A transfer of immoveable property belonging to a committee must be made by an instrument in writing, executed by the president or vice-president, and by at least two other members of the committee.

(*3*) No contract or transfer of the description mentioned in this section executed otherwise than in conformity with the provisions of this section shall be binding on the committee.

Penalty on member, officer or servant being interested in contract made with a committee.

35. (*1*) If any member, officer or servant of a municipal committee or joint committee is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

XLV of 860.

(*2*) A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any

contract entered into between the company and a committee; but he shall not take part in any proceedings of the committee relating to any such contract.

Privileges and Liabilities.

Suits against committee and its officers.

36. No suit shall be instituted against a committee, or against an officer of a committee in respect of an act purporting to be done by him in his official capacity, until the expiration of one month next after notice in writing has been, in the case of a committee, left at its office, and, in the case of an officer, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such a notice has been so delivered or left:

Provided that this section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877. I of 1877.

Liability of members of committees.

37. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to a committee, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee; and a suit for compensation for the same may be instituted against him, in such Court as the Local Government directs, by the committee with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Acquisition of Land.

Acquisition of land.

38. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land-acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the committee. X of 1870.

CHAPTER III.

TAXATION.

General Provisions.

Taxes which may be imposed.

39. (*1*) Subject to any general rules or special orders which the Governor General in Council may make in this behalf, and to any rules made by the Local Government under this Act, a committee may, from time to time for the purposes of this Act, and in the manner by this Act directed, impose in the whole or any part of the municipality any of the following taxes, namely:—

(*A*) with the previous sanction of the Local Government—

(*a*) a tax on buildings and lands, either—

(i) not exceeding in any municipalities which may be constituted

at the places specified in the schedule hereto annexed 10 per cent., and elsewhere 7½ per cent., on the annual value; or

(ii) not exceeding in the said municipalities one anna four pies, and elsewhere one anna, per square yard of the ground area; or

(iii) not exceeding in the said municipalities four rupees, and elsewhere three rupees, per running foot of frontage in streets or bázárs;

(*b*) a tax on persons practising any profession or art or carrying on any trade or calling in the municipality;

(*c*) a tax on all or any vehicles, boats; animals used for riding, driving, draught or burden, and dogs, kept within the municipality;

(*d*) a tax on vehicles and animals used as aforesaid entering the municipality;

(*e*) a tax on menial and domestic servants;

(*f*) an octroi on animals for slaughter or goods or both brought within the octroi-limits for consumption or use therein; and

(*B*) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

(*2*) In this section "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let, and, in the case of houses, may be expected to let unfurnished:

Provided that, in the case of land assessed to land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, if the Local Government so directs, the annual value shall be deemed to be double the aggregate of the following amounts, namely:—

(*a*) the amount of the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; or, when the land-revenue has been wholly or in part compounded for or redeemed, the amount which, but for such composition or redemption, would have been leviable; and

(*b*) when the improvement of the land due to canal-irrigation has been excluded from account in assessing the land-revenue, the amount of the owner's rate or water-advantage rate or other rate imposed in respect of such improvement.

Scavenging-tax.

40. When a committee has, in exercise of the powers conferred by this Act, provided for the performance, with regard to any buildings or lands, by its agents of the duties usually performed by sweepers, it may, with the previous sanction of the Local Government, in the manner by this Act directed, impose upon those buildings and lands, in addition to any other tax imposed upon them under this Act, a tax to be called the scavenging-tax, at such rate or of such amount as it thinks fit:

Provided that in fixing the rate or amount regard shall be had to the

principle that the total net proceeds of the tax should not exceed the cost of the performance of the said duties.

Water-tax.

41. (*1*) Besides the taxes mentioned in the foregoing sections, a committee, with the previous sanction of the Local Government, may, for the purpose of constructing or maintaining works for the supply of water to the municipality or paying the principal or interest of any loan raised for the construction of such works, impose, in the manner by this Act directed, a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by the works.

(*2*) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable by the works and to their level; but in fixing it regard shall be had to the principle that the total net proceeds of the tax, with the estimated income from payments for water supplied from the works under special contracts, should not exceed the amount required for the said purposes.

Procedure in imposing taxes.

42. (*1*) A committee may, at a special meeting, pass a resolution to propose the imposition of any tax under section 39, section 40 or section 41.

(*2*) When such a resolution has been passed, the committee shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(*3*) Any inhabitant objecting to the proposed tax may, within thirty days from the publication of the notice, submit his objection in writing to the committee; and the committee shall, at a special meeting, take his objection into consideration.

(*4*) If no such objection is received within the said period of thirty days, or if such objection, having been considered as aforesaid, is deemed insufficient, the committee may forward its proposals to the Local Government, with the objections (if any) which have been submitted as aforesaid, and its decision thereupon.

(*5*) The Local Government, on receiving such proposals, may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(*6*) When the Local Government sanctions any such proposals which require the further sanction of the Governor General in Council, it shall submit the same to the Governor General in Council, with the objections (if any) received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(*7*) When the proposals of a committee have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with such proposals.

(*8*) In giving such direction the committee shall fix a date from which the tax shall come into force :

Provided that—

(*a*) no tax shall come into force until it has been notified;

(*b*) no tax leviable by the year shall come into force except at the commencement of the year by which it is leviable; and

(*c*) no other tax shall come into force less than six months from the date of the meeting at which its imposition is directed.

(*9*) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

Power to abolish or reduce tax.

43. A committee may, by a resolution passed at a special meeting and confirmed by the Local Government, abolish or reduce in amount any tax imposed under the foregoing sections.

Power to exempt from taxation.

44. (*1*) A committee may exempt, in whole or in part, from the payment of any such tax any person who by reason of poverty may in its opinion be unable to pay the same.

(*2*) A committee may, by resolution passed at a special meeting and confirmed by the Local Government, and the Local Government may by order, exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property.

Power for Local Government to suspend levy of tax.

45. (*1*) If at any time it appears to the Local Government, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence, or that the levy thereof or of any part thereof is injurious to the interests of the general public, it may require the committee to take within a specified period measures to remove the objection ; and, if within that period the requirement is not complied with to the satisfaction of the Local Government, the Local Government may by notification suspend the levy of the tax or of such part thereof until the objection has been removed.

(*2*) The Local Government may at any time, by notification, rescind any such suspension.

Taxes not invalid for defect of form.

46. No tax imposed under this Act shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Taxes when payable.

47. Any tax imposed under the foregoing sections and payable periodically shall be payable on such dates and in such instalments (if any) as the committee, with the previous sanction of the Local Government, may, by rule, from time to time direct.

Receipts to be given.

48. For all sums paid on account of any tax under this Act, a receipt, stating the amount and the tax on account of which it is paid, shall be given by the person receiving the same, on request by the person making the payment.

Appeals against taxation.

49. (*1*) An appeal against the assessment or levy of any tax under this Act shall lie to the Deputy Commissioner, unless he is a member of the committee, in which case the appeal shall lie to the Commissioner or other officer empowered by the Local Government in this behalf.

(*2*) If, on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of, a tax arises, on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement with his own opinion on the point for the decision of the Chief Court.

(*3*) On a reference being made under sub-section (*2*) the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in Chapter XLVI of the Code of Civil Procedure. XIV of 1882.

Limitation of appeal.

50. (*1*) No appeal shall lie in respect of a tax on any land or building, unless it is preferred within one month after the publication of the notice prescribed by section 56, and no appeal shall lie in respect of any other tax unless it is preferred within one month from the time when the demand for the tax is made:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the officer before whom the appeal is preferred that he had sufficient cause for not presenting the appeal within that period.

(*2*) No appeal shall be entertained unless the amount of the tax to which it relates is deposited with the committee before the appeal is preferred.

Taxation not to be questioned except under this Act.

51. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than in this Act is provided.

Taxes leviable under Act IV of 1873 to be deemed to be taxes under this Act.

52. All taxes leviable in any local area under the Punjab Municipal Act, 1873,[a] at the time when a committee having authority over that local area comes into existence under this Act shall, so far as their imposition and assessment are consistent with this Act and within the powers conferred thereby, be deemed to have been imposed and assessed under this Act. IV of 1873.

Taxes on Immoveable Property.

Preparation of assessment-lists.

53. (*1*) The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing—

(*a*) the name of the street or division in which the property is situate;

(*b*) the designation of the property, either by name or by number, sufficient for identification;

[a] Act IV of 1873 was superseded by this Act, see s. 12, cl. (*a*), *supra*, p. 198.

(*c*) the names of the owner and occupier, if known;

(*d*) the annual value, area or length of frontage on which the property is assessed; and

(*e*) the amount of the tax assessed thereon by the committee.

(*2*) For the purpose of preparing the list, the committee may require the owners or occupiers of the buildings or lands to furnish it with the returns of the measurements and of the rent or annual value.

Publication of notice of assessments.

54. When the assessment-list has been completed, the committee shall give public notice thereof, and of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, or the agent of any such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising assessment-list.

55. (*1*) The committee shall at the same time give public notice of a time, not less than one month from the publication of the notice, when it will proceed to revise the valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.

(*2*) All objections to the valuation and assessment shall be made in writing before the time fixed in the notice or orally or in writing at that time.

Settlement of list.

56. (*1*) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent as they think fit, and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list, except in the cases in which amendments have been entered therein; and subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year by which it is leviable next following that in which the assessment is made.

(*2*) The list when amended under this section shall be deposited in the committee's office, and shall there be open during office-hours to all owners and occupiers of property comprised therein, and a public notice that it is so open shall forthwith be published.

Further amendments of assessment-list.

57. (*1*) The committee may at any time amend the list by inserting the name of any person whose name ought to be inserted, or by inserting any property which ought to have been inserted, or by altering the assessment on any property which has been insufficiently valued or assessed through mistake, oversight or fraud, after giving notice, to any person interested in the amendment, of a time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(*2*) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally

or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent as he thinks fit.

New list need not be prepared every year.

58. It shall be in the discretion of the committee to prepare a new assessment-list every year; or to adopt the valuation and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving the same notice of the valuation and assessment as if a new assessment-list had been prepared.

Remission of tax on unoccupied immoveable property.

59. (*1*) When a tax payable under section 39, sub-section (*1*), clause (*a*), or under section 40 or section 41, is payable in one sum in respect of an entire year, and the property in respect of which it is payable is unoccupied throughout the year, or when such a tax is payable in instalments and the property is unoccupied throughout the period in respect of which an instalment is payable, the amount payable in respect of the property for the year, or the instalment, as the case may be, shall be remitted:

Provided that it shall be in the discretion of the committee to direct that no remission shall be granted unless notice in writing of the vacancy has been given to it within such time from the beginning of the year or of the period as it may, from time to time, fix in this behalf.

(*2*) When in any case not provided for by the foregoing part of this section a building in respect of which a tax is payable under section 39, sub-section (*1*), clause (*a*), or under section 40 or section 41, is wholly or in greater part demolished or destroyed by fire or otherwise, the committee may remit such proportion of the tax as it thinks equitable.

Taxes on immoveable property by whom payable.

60. (*1*) A tax payable under section 39, sub-section (*1*), clause (*a*), shall be paid by the owner of the property in respect of which it is payable.

(*2*) A tax payable under section 40 or section 41 shall be paid by the occupier of the property in respect of which it is payable.

Recovery of taxes payable by owner.

61. (*1*) When any sum is due on account of a tax payable under this Act in respect of any property by the owner thereof, the committee shall cause a bill for the amount, stating the property and the period for which the charge is made, to be presented to the person liable to pay the same.

(*2*) If the bill is not paid within ten days from the presentation thereof, the committee may cause a notice of demand to be served on that person; and if he does not, within seven days from the service of the notice, pay the sum due, with any fee leviable for the notice, or show sufficient cause for non-payment, the sum due, with the fee, shall be deemed to be an arrear of tax.

(*3*) The amount of every such arrear, besides being recoverable in any other manner provided by this Act, shall, subject to any claim on behalf of Her Majesty, be a first charge on the property in respect of which it is payable, and shall be recoverable, on application made in this behalf by the committee to the Deputy Commissioner, as if the property were an estate assessed to land-revenue and the arrear were an arrear of such revenue due thereon:

Provided that nothing in this sub-section shall authorize the arrest of a defaulter.

Octroi and Tolls.

Power to search where octroi is leviable.

62. If any person, bringing or receiving a conveyance or package within the octroi-limits of a municipality in which octroi is leviable, refuses, on the demand of an officer authorized by the committee in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate, who shall cause the inspection to be made in his presence.

Power to examine article liable to octroi.

63. Every person bringing or receiving within the octroi-limits of any municipality any article on which octroi is payable shall, when required by an officer authorized by the committee in this behalf, and so far as may be necessary for ascertaining the amount of tax chargeable,—

(*a*) permit that officer to inspect, examine, weigh and otherwise deal with the article; and

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature he may possess relating to the article.

Presentation of bill for octroi.

64. Every officer demanding octroi by the authority of the committee shall tender to every person introducing or receiving any article on which the tax is claimed a bill specifying the article taxable, the amount claimed and the rate at which the tax is calculated.

Recovery of octroi and tolls.

65. (*1*) In case of non-payment of any octroi or of any toll on demand, the officer empowered to collect the same may seize any article on which the octroi is chargeable, or any vehicle or animal on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.

(*2*) The committee may cause any property so seized, or so much thereof as is necessary, to be sold by auction to satisfy the demand, with the expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid, after the lapse of five days from the seizure, and after the issue of a proclamation fixing the time and place of sale:

Provided that, by order of the president or a vice-president, articles of a perishable nature which could not be kept for five days without serious risk of damage may be sold after the lapse of such shorter time as he may, having regard to the nature of the articles, think proper.

Power to lease the collection of octroi or tolls.

66. The collection of any octroi or toll may be leased by the committee, with the previous sanction of the Commissioner, for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of the octroi or toll shall in respect thereof—

(*a*) be bound by any rules made by the committee for their guidance;

(*b*) have such powers exerciseable by servants of a committee under this Act as the committee may, from time to time, confer upon them; and

(*c*) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the committee for the management and collection of the octroi or toll.

CHAPTER IV.

MUNICIPAL FUND AND PROPERTY.

Constitution of municipal fund.

67. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(*a*) all sums received by or on behalf of the committee under this Act or otherwise;

(*b*) all fines realized in cases in which prosecutions are instituted under this Act or the rules made hereunder or under section 34 of Act V of 1861 for offences committed within the municipality; and

(*c*) when there has been included within the municipality any municipality constituted under the Punjab Municipal Act, 1873,[a] the balance (if any) standing at the credit of the municipal fund of that municipality at the time when the committee comes into existence. IV of 1873.

Application of fund.

68. (*1*) The committee shall set apart and apply annually out of the municipal fund—

(*a*) *first*, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

(*b*) *secondly*, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 31 and 32, and such sum as may be required for the maintenance of a police-establishment under Chapter V;

(*c*) *thirdly*, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to the committee in return for services rendered to it by these Departments.

(*2*) Subject to the charges specified in sub-section (*1*) and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the municipality, and with the sanction of the Com-

---

[a] Act IV of 1873 was superseded by this Act, see s. 12, cl. (a), *supra*, p. 198.

missioner outside the municipality, when such application of the fund is for the benefit of the inhabitants, namely :—

(*a*) the construction, maintenance, improvement, cleansing and repair of public streets, bridges, embankments, drains, latrines, tanks and water-courses ;

(*b*) the watering and lighting of such streets or any of them ;

(*c*) the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutions for the promotion of education, or for the benefit of the public health, and of rest-houses, saráis, poor-houses, markets, encamping-grounds, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions ;

(*d*) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums and other educational or charitable institutions ;

(*e*) the training of teachers and the establishment of scholarships ;

(*f*) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity ;

(*g*) the supply, storage and preservation from pollution of water for the use of men or animals ;

(*h*) the planting and preservation of trees ;

(*i*) the taking of a census, the registration of births, marriages and deaths, public vaccination and any other sanitary measure ;

(*j*) the holding of fairs and industrial exhibitions ; and

(*k*) all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants.

Custody of municipal fund.

69. (*1*) In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank.

(*2*) In places where there is no such treasury, sub-treasury or bank, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

Investment of same.

70. (*1*) A committee may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of a like nature.

(*2*) The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

Property vested in committee.

71. Subject to any special reservation made by the Local Government, all property of the nature hereinafter specified and situate within the municipality shall be vested in and belong to the committee, and shall, with all other pro-

perty which may become vested in the committee, be under its direction management and control, and shall be held and applied by it for the purposes of this Act, that is to say:—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depôts and public buildings of every description which have been constructed or are maintained out of the municipal fund.

(*b*) All public streams, springs and works for the supply, storage and distribution of water for public purposes, and all bridges, buildings, engines, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well.

(*c*) All public sewers and drains, and all sewers, drains, culverts and watercourses in, alongside or under any street, and all works, materials and things appertaining thereto.

(*d*) All dust, dirt, dung, ashes, refuse, animal-matter or filth or rubbish of any kind collected by the committee from the streets, houses, privies, sewers, cesspools or elsewhere.

(*e*) All public lamps, lamp-posts and apparatus connected therewith or appertaining thereto.

(*f*) All land or other property transferred to the committee by the Government or by gift, purchase or otherwise for local public purposes.

(*g*) All streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

Management of public institutions.

72. (*1*) The management, control and administration of every public institution maintained out of the municipal fund shall vest in the committee:

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the Local Government.

(*2*) When any public institution is placed under the direction, management and control of the committee, all property, endowments and funds belonging thereto shall be held by the committee in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed.

Transfer to Crown of property vesting in committee.

73. The committee may, with the sanction of the Local Government, transfer to Her Majesty any property vesting in the committee under section 71 or section 72, but not so as to affect any trusts or public rights subject to which the property is held.

CHAPTER V.

Municipal Police.

Police-establishment.

74. (*1*) Every committee shall, unless it is relieved of this obligation by the Local Government, maintain a sufficient police-establishment for police

requirements within municipal limits and for the performance of the duties imposed on it by this Act.

(*2*) The establishment maintained under sub-section (*1*) shall, as the committee with the approval of the Local Government may, from time to time, determine, be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly one and partly the other; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave-allowances, gratuities and pensions, as the committee may, from time to time, after consultation with the Magistrate of the district and the Inspector General of Police, and subject to the final decision of the Local Government, direct.

Relief of committee from police-charges.

75. (*1*) The Local Government may relieve any committee of the whole or part of the cost of the police-establishment, and may enter into a contract with the committee, on such terms as may be agreed on, that, in consideration of such relief, the committee shall pay periodically a sum not exceeding the amount thereof or undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of the relief.

(*2*) When a committee is relieved under this section of the whole or part of the cost of the police establishment which it is required to maintain, the Local Government shall maintain such police-establishment as it considers necessary, and the establishment so maintained may be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly one and partly the other.

Appointment, liabilities and duties of municipal watchmen.

76. (*1*) If the establishment maintained under this chapter is wholly or in part a body of watchmen, the watchmen—

(*a*) shall be under the orders of the District Superintendent of Police, subject to the general control of the Magistrate of the district;

(*b*) shall be appointed and promoted, and shall be liable to dismissal, suspension, reduction or fine, under such rules as the Local Government may, from time to time, make in this behalf;

(*c*) shall perform such duties as the Local Government may, from time to time, subject to the provisions of this Act, direct; and

(*d*) shall possess the same powers, be entitled to the same assistance, enjoy the same protection, be subject to the same responsibilities and be liable to the same penalties as if they were police-officers enrolled under Act V of 1861.

(*2*) Any person obstructing any such watchman in the discharge of his duties may be arrested without warrant by a police-officer or by any such watchman.

Duties of municipal

77. If the establishment maintained under this chapter or any portion thereof is part of the general police-force, the Local Government may, not-

police enrolled under Act V of 1861.

withstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define, subject to the provisions of this Act, the duties which the officers and men of the establishment or such portion thereof may or may not be required to perform.

Powers and duties of police in respect of offences against Act and rules, and assistance to municipal authorities.

78. (*1*) Every member of a police-establishment under this Act shall give immediate information to the committee of any offence committed against this Act or the rules made thereunder, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(*2*) Every member of such police-establishment may arrest any person committing in his view any offence against this Act or the rules made thereunder—

(*a*) if the name and address of the person are unknown to him, or

(*b*) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(*3*) A person arrested under this section may be detained until his name and address are correctly ascertained :

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate unless the order of a Magistrate for his detention is obtained.

Saving of section 9 of Act III of 1880.

79. Nothing in the foregoing sections of this chapter shall affect section 9 of the Cantonments Act, 1880. III of 1880.

Police-protection at fairs, &c.

80. When special police-protection is, in the opinion of the Local Government, requisite on the occasion of any fair, agricultural show or industrial exhibition managed by a committee, the Local Government may provide such protection, and the committee shall pay the whole charge thereof or such portion of the charge as the Local Government may consider equitably debitable to it.

CHAPTER VI.

Powers for Sanitary and other Purposes.

Streets and Buildings.

Power to acquire land for new streets and building-sites adjoining them.

81. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

Power to close streets.

82. The committee may close temporarily any street vested in it or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose; and may divert, discontinue or permanently close any such street, and sell the land or such part thereof as is not required for the purposes of this Act.

83. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

Power to permit temporary occupation of streets, &c.

84. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

Power to attach brackets for lamps.

85. (*1*) The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

Names of streets and numbers of buildings.

(*2*) Whoever destroys, pulls down or defaces any such name or number, or puts up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to twenty rupees.

86. The committee at a meeting may direct that, within certain limits, to be fixed by it, the external roofs and walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials unless with the permission of the committee in writing; and the committee may, by written notice, require any person who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as it may think fit.

Roofs and external walls not to be made of inflammable materials.

87. (*1*) If any building or part of a building projects beyond the regular line of a public street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice require the building or part, when being re-built, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the public street and shall vest in the committee:

Power to regulate line of buildings.

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(*2*) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

88. (*1*) Every person intending to erect or re-erect any building shall, if required to do so by rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, submit a plan showing the levels at which the foundation and lowest floor are proposed to be laid, and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions consistent

Notice of new buildings.

with this Act given by the committee within one month after receiving such notice, either prohibiting the erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely :—

(*a*) free passage or way in front of the building;

(*b*) space to be left about the building to secure free circulation of air and facilitate scavenging;

(*c*) ventilation and drainage;

(*d*) level and width of foundation, level of lowest floor and stability of structure; and

(*e*) the line of frontage with neighbouring buildings, if the building abuts on a street or public thoroughfare:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the erection or re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(*2*) If any such building is begun or erected without giving notice, or without submitting particulars as aforesaid when required, or in contravention of the legal orders of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

Explanation.—The expression "erect any building" includes all additions and alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

Removal of projections and obstructions.

89. (*1*) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a public street to add to, or place against or in front of, the building any projection or structure overhanging, projecting into or encroaching on the street or into or on any drain, sewer or aqueduct therein.

(*2*) The committee may, by notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction built or placed against or in front thereof if the same overhangs or projects into or encroaches on any public street, or projects into or encroaches on any drain, aqueduct or sewer in the street:

Provided that, in the case of a projection, encroachment or obstruction being lawfully in existence at the time of the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

(*3*) The committee may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms pro-

jecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the written permission.

Bathing and Washing Places.

Bathing and washing places.

90. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and all other acts not so permitted by which water in public places may be rendered foul or unfit for use.

Deposit of Offensive Matter and Slaughter-places.

Removal and deposit of offensive matter.

91. The committee may fix places within or, with the approval of the Deputy Commissioner, beyond the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Places for slaughter of animals.

92. (*1*) The committee may, with the approval of the Deputy Commissioner, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to the committee, charge rent or fees for the use of the same.

(*2*) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(*3*) When any such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place.

(*4*) Whoever slaughters any such animal for sale at any other place within the municipality shall be punishable with fine which may extend to twenty rupees.

Burial and Burning Places.

Powers in respect of burial and burning places.

93. (*1*) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood, to be closed, from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(*2*) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(*3*) No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, without the permission in writing of the committee.

(*4*) If any person buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to fifty rupees.

Routes for removal of corpses.

94. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

Inflammable Materials.

Inflammable materials.

95. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting dry grass, straw or other inflammable materials, or placing mats or thatched huts or lighting fires in any place or within any limits specified in the notice.

Powers of Entry and Inspection.

Inspection of drains, privies and cesspools.

96. (*1*) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice in writing to the occupier of any land or building in which any drains, privies or cesspools are situated, inspect any such drains, privies and cesspools at any time between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the privies, drains or cesspools.

(*2*) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

Power to enter and inspect buildings, &c.

97. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the owner, of any building, at any time between sunrise and sunset, enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

98. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or if there is no occupier, to the owner, of any building or land, at any time between sunrise and sunset— Other powers of entry on buildings or land.

(*a*) enter on and survey and take levels of any land;

(*b*) enter, inspect and measure any building for the purpose of valuation;

(*c*) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains or of executing or repairing any work which it is by this Act empowered to execute or maintain.

99. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act, for which a license has not been duly taken out. Power to enter for discovery of vehicles or animals liable to taxation.

100. The committee, by any person authorized by it in this behalf, may at all reasonable times enter into and inspect any market, building, shop, stall or place used for the sale of food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, drug or animal which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same, or may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption; Power to inspect places used for sale of food or drink, &c., and to seize unwholesome articles exposed for sale.

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

101. (*1*) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any buildings or lands, or of any privies, drains, cesspools or other receptacles for offensive matter pertaining to buildings or land, with the consent of the occupier of the building or land, or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties. Power of entry for purpose of scavenging.

(*2*) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

102. When any building used as a human dwelling is entered under this Precautions

to be observed in entering dwelling.

Act, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman, who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, Privies and Drains.

Troughs and pipes for rain-water.

103. The committee may, by notice, require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to inconvenience persons passing along the street.

Provision of privies, &c.

104. (*1*) The committee may, by notice, require the owner of any building to provide any privy or cesspool, or additional privies or cesspools, which should in its opinion be provided for the building, in such manner as the committee directs.

(*2*) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit, and to cause the same to be kept in proper order and to be daily cleaned.

(*3*) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trapdoor of a privy, opening on to any street or drain.

Repair and closing of drains, privies and cesspools.

105. (*1*) The committee may, by notice, require the owner or occupier of any building or land to repair or alter and put in good order any drain, privy or cesspool, or to close any cesspool belonging thereto.

(*2*) The committee may, by notice, require any person who constructs any new drain, privy or cesspool without its permission in writing, or contrary to its directions or regulations or to the provisions of this Act, or who constructs, rebuilds or opens any drain, privy or cesspool which it has ordered to be demolished or stopped up or not to be made, to demolish the drain, privy or cesspool, or to make such alteration therein as it thinks fit.

Unauthorized buildings over drains, &c.

106. The committee may, by notice, require any person who without its permission in writing newly erects or rebuilds any building over any sewer, drain, culvert, watercourse or water-pipe vested in the committee to pull down or otherwise deal with the same as it thinks fit.

Removal of latrines, &c., near any source of water-supply.

107. The committee may, by notice, require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week.

108. The committee may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive to the neighbourhood:

Power to require drainage, &c., of unwholesome tanks, &c.

Provided that, if for the purpose of effecting any drainage under this section it is necessary to acquire any land not belonging to the person who is required to drain his land or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

109. If any building, or any well, tank or other excavation, is for want of sufficient repair, protection or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or occupier thereof to repair, protect or enclose the same; and, if it appears to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps as are necessary to avert the danger.

Power to require buildings, wells, tanks, &c., to be secured.

110. If any building, wall, structure or anything affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, it may, by notice, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall or structure as the committee consider necessary for the public safety; and, if it appears to it to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Building, &c., in ruinous or dangerous state.

Buildings and Grounds in unsanitary Condition.

111. The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation, jungle or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood.

Power to require owner to clear away noxious vegetation.

112. The committee may, by notice, require the owner or occupier of any land, within three days, to cut or trim the hedges thereof bordering on any street, or branches of trees growing thereon which overhang any street and obstruct the same or cause danger thereto, or which so overhang any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

Power to trim hedges and trees bordering on streets, wells, &c.

113. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state.

Cleansing of filthy buildings or land.

114. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or other sufficient reason, the committee may, by notice, prohibit the owner or occupier thereof from using the same for human habitation or suffering it to

Power to prohibit use for human habitation of buildings unfit for such use.

be so used, until the committee is satisfied that it has been rendered fit for such use.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

115. The committee may, by notice, require the owner or person claiming to be the owner of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time fixed in the notice.

Cultivation, use of manure or irrigation injurious to health, may be prohibited.

116. (*1*) The Local Government may, on the report of the Sanitary Commissioner that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of any municipality is injurious to the health of persons dwelling in the neighbourhood, by notification prohibit the cultivation of the crop, the use of the manure or the irrigation so reported to be injurious, or regulate it by imposing such conditions thereon as may prevent the injury:

Provided that, when on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used, or irrigation has been practised in that manner during the five years preceding the notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

(*2*) If any person cultivates, uses manure or irrigates in disregard of the prohibition or conditions notified under sub-section (*1*), he shall be punishable with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Offensive and Dangerous Trades.

Regulation of offensive and dangerous trades.

117. (*1*) The owner or occupier of every place within the municipality used for any of the following purposes, namely:—

melting tallow;

boiling bones, offal or blood; or

as a soap-house, oil-boiling house, dyeing-house or tannery; or,

as a brickkiln, pottery or limekiln; or

as any other manufactory or place of business from which offensive or unwholesome smells arise; or

as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material; or

as a store house for kerosine, petroleum, naphtha or any inflammable oil, spirit or explosive substance;

shall register the same in a book to be kept by the committee for the purpose.

(*2*) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may charge fees for such licenses, and may impose such conditions in respect thereof as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be punishable with fine which may extend to fifty rupees, and with further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to prohibit such trades.

118 (1) If it is shown to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last preceding section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, it may, by notice, require the occupier thereof to discontinue the use of the place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

(2) Whoever, after such notice has been given, uses the place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punishable with fine which may extend to two hundred rupees, and with further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to make Rules.

Power to make rules

119 (1) A committee may, from time to time, at a special meeting, make rules—

(*a*) for rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

(*b*) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, and the loads to be carried by such conveyances, animals or persons, where they are hired within the municipality for a period not exceeding twenty-four hours or for a service which would ordinarily be performed within twenty-four hours;

(*c*) for securing a proper registration of births, marriages and deaths, and for the taking of a census;

(*d*) for fixing, and from time to time varying, the number of persons who may occupy a building or part of a building which is let in lodgings or occupied by members of more than one family;

for the registration and inspection of such buildings,

for promoting cleanliness and ventilation in such buildings,

for the notices to be given and the precautions to be taken in the case of any infectious disease breaking out in such buildings;

and generally for the proper regulation of such buildings;

(*e*) for the inspection and proper regulation of encamping-grounds, pounds, saráís, markets and slaughter-houses;

(*f*) for the holding of fairs and industrial exhibitions within the municipality and under its control;

(*g*) for controlling and regulating the use and management of burial and burning grounds;

(*h*) for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

(*i*) where the collection of an octroi-tax has been sanctioned, for fixing octroi-limits for the purpose of collecting that tax; and

(*j*) for carrying out the purposes of this Act:

Provided that the committee of a municipality in which the Hackney Carriage Act, 1879,[a] is in force shall not make rules under clauses (*a*) and (*b*) in respect of any vehicles to which that Act applies. XIV of 1879.

(*2*) When the authorities of any cantonment, with the sanction of the Government of India, have agreed with the committee of an adjoining municipality that the same octroi-limits shall be established for the cantonment and the municipality, and that octroi-collections and charges shall be divided between the cantonment fund and the municipal fund, the committee may fix limits under clause (*i*) of sub-section (*1*) so as to include so much both of the cantonment and of the municipal area as it may deem necessary, and shall have the same powers of collecting octroi on animals or goods brought within such limits, and the provisions of this Act relating to octroi shall apply in the same way, as if the said limits were wholly comprised in the area of the municipality.

Additional power to make rules in hill municipalities.

120. The committee of a municipality wholly or in part situated in a hilly tract may, from time to time, at a special meeting, make rules—

(*a*) for regulating or prohibiting the cutting or destroying of trees or shrubs, or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of land-slips or of the formation of ravines or torrents, or the protection of land against erosion or the deposit thereon of sand, gravel or stones;

(*b*) for the regulation or prohibition of any description of traffic in the streets where such regulation or prohibition appears necessary for the prevention of danger or grave inconvenience to the public.

Penalty for

121. In making any rule under section 119 or section 120 the committee

[a] For places to which Act XIV of 1879 has been applied, see footnote, *supra*, p. 125.

may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues. In lieu of or in addition to such fine, the Magistrate may require the offender to remedy the mischief so far as within his power. Infringement of rules.

122. No rule made under section 119 or section 120 shall come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may prescribe in this behalf. Confirmation of rules.

Supplemental.

123. (*1*) When any notice under this chapter requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same. Execution of acts required to be done by any notice.

(*2*) When the owner or occupier of any land or building fails to comply with the terms of any notice under this chapter requiring him to do any act upon that land or building, the committee may, after six hours' notice, by its officers, cause the act to be done.

124. (*1*) Where, under this Act, the owner or occupier of property is required by the committee to execute any work and makes default in complying with the requirement, and the committee executes the work, the committee may recover the cost of the work from the person in default. Recovery of costs of execution.

(*2*) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent from time to time becoming due from him to the owner of the property in respect of which the payment is made, or otherwise recover it from the owner.

(*3*) Provided that an occupier shall not be required to pay, under the last sub-section, any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(*4*) All money recoverable by a committee under this section may be recovered either by suit, or on application to a Magistrate having jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

Compensation out of municipal fund.

125. (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants, under this Act, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or in default of agreement in the manner provided by the Land-acquisition Act, 1870, sections 3, 8 to 42, 51 to 53, and 56 to 59, so far as they can be made applicable. X of 1870.

Appeals against certain orders of committee.

126. (1) Any person aggrieved by any order made by a committee under the powers vested in it by section 93, 114 or 118 may appeal within thirty days from the date thereof to the Commissioner when the municipality is of the first class, or to the Deputy Commissioner when the committee is of the second class; and no such order shall be liable to be called in question otherwise than by such appeal:

Provided that, if in the latter case the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner or other officer empowered by the Local Government in this behalf.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the order appealed against shall be final:

Provided that the order appealed against shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

CHAPTER VII.

OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY OR CONVENIENCE.

Penalty for depositing earth or offensive matter on roads or into drains.

127. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any public street or place, or into any public sewer or drain or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees.

Penalty for causing or allowing sewage to

128. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer or cesspool, or any other offensive matter, to flow, drain or be put upon any public street or place, or into any sewer or

drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees. flow upon a public place.

129. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth, or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees. Penalty for non-removal of filth, &c.

130. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the committee, shall be punishable with fine which may extend to fifty rupees. Penalty for making or altering drains without authority.

131. Whoever makes, without the permission of the committee, or keeps for a longer time than one week after notice to remove issued under section 107, any drain, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to twenty rupees, and, when a notice has issued, with a further fine not exceeding five rupees for each day during which the offence is continued after the lapse of the period allowed for removal. Penalty for making or keeping latrines, &c., near any source of water-supply.

132. Whoever keeps any swine in disregard of any orders which the committee may give to prevent them from becoming a nuisance, or keeps any other animals so as to be injurious to health or to become a nuisance, shall be punishable with fine which may extend to twenty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued. Penalty for keeping animals so as to be injurious to health.

133. Whoever feeds or allows to be fed any animal which is kept for dairy purposes or may be used for food on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees. Penalty for feeding certain animals on deleterious substances.

134. Whoever drives any vehicle after dark in any public street or thoroughfare at more than a walking pace, unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary, shall be punishable with fine which may extend to twenty rupees. Penalty for driving vehicles without proper lights.

135. Whoever discharges fire-arms or lets off fire-works or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees. Penalty for discharging fire-arms, &c.

136. Whoever, being an elephant-driver or camel-driver, omits on being requested to do so to remove his elephant or camel to a safe distance on the approach of a horse, whether ridden or driven, shall be punishable with fine which may extend to twenty rupees. Penalty for non-removal of elephants or camels on approach of a horse.

Penalty for taking elephants along public roads

137. Whoever, contrary to any orders of the committee, takes an elephant along a public street or thoroughfare, shall be punishable with fine which may extend to twenty rupees.

Penalty for suffering dogs to be at large.

138. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any public street or place, shall be punishable with fine which may extend to twenty rupees.

Penalty for altering, obstructing or encroaching upon streets, &c.

139. Whoever, without the permission of the committee, alters, obstructs or encroaches upon any public street, thoroughfare, sewer, drain or water-course, or displaces, takes up or alters the pavement or other materials or the fences or posts of any public street, place or thoroughfare, or deposits building-materials or makes any hole or excavation on or in any public street or thoroughfare, shall be punishable with fine which may extend to fifty rupees.

Penalty for quarrying, cutting timber or building.

140. Whoever quarries, blasts, cuts timber or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

Penalty for picketing animals and collecting carts.

141. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees.

Penalty for carrying corpses by prohibited routes.

142. Whoever carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public shall be punishable with fine which may extend to ten rupees.

Penalty for disturbing direction-posts, lamp-posts, &c.

143. Whoever, without being authorised by the committee, defaces or disturbs any direction-post or lamp-post, or extinguishes any light in any public place, shall be punishable with fine which may extend to ten rupees.

Penalty for disobedience to orders of committee not punishable under any other section.

144. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon it by the last preceding chapter, or any written notice lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues:

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Prosecution to be sus-

145. Any prosecution for an offence under section 93, or section 118 or

under section 144, when the order which has been disobeyed is appealable, shall be suspended when the Magistrate learns that an appeal has been instituted pending the decision of the appeal; and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against those sections.

Provided in certain cases.

CHAPTER VIII.

CONTROL.

Control by Commissioner and Deputy Commissioner.

146. (*1*) The Commissioner of the division or the Deputy Commissioner of the district (not being a member of the committee) may—

(*a*) enter on, inspect and survey, or cause to be entered on, inspected and surveyed, any immoveable property within the limits of the division or district respectively, occupied by any committee or joint committee, or any work in progress within those limits under its directions;

(*b*) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within the said limits;

(*c*) by order in writing require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee.

(*2*) Every committee shall submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may, from time to time, direct.

Power to suspend action of committee.

147. The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of a committee or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done in pursuance of or under cover of this Act if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

Extraordinary powers of Deputy Commissioner in case of emergency.

148. (*1*) In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the committee.

(*2*) If the expense is not so paid the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

Power to provide for performance of duties in case of default of committee.

149. (*1*) When the Commissioner, after due enquiry, is satisfied that a committee of the first class has made default in performing any duty imposed upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty; and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the committee to that person.

(*2*) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

(*3*) The Deputy Commissioner shall have the same powers with respect to committees of the second class as are by this section conferred upon the Commissioner with respect to committees of the first class.

Action of Deputy Commissioner or Commissioner to be immediately reported.

150. When the Deputy Commissioner makes any order under section 147, section 148 or section 149, he shall forthwith forward to the Local Government through the Commissioner, and, when the Commissioner makes any order under section 147 or section 149, he shall forthwith forward to the Local Government, a copy thereof, with a statement of the reasons for making it, and with such explanation, if any, as the committee may wish to offer; and the Local Government may thereupon confirm, modify or rescind the order.

Powers of Local Government and its officers over committees.

151. (*1*) It shall be the duty of the Local Government, and of all Commissioners and Deputy Commissioners acting under its orders, to require that the proceedings of committees shall be in conformity with law.

(*2*) The Local Government may exercise all powers necessary for this purpose, and may, amongst other things, by order in writing, annul or modify any proceeding which it considers not to be in conformity with law.

(*3*) The Commissioner of the division and the Deputy Commissioner of the district may, within their jurisdiction for the same purpose, exercise such powers as may be conferred upon them by rule made in this behalf by the Local Government.

Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.

152. (*1*) If a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by notification, in which the reasons for so doing shall be stated, declare the committee to be superseded:

Provided that, in case of public emergency, such notification may be issued without the previous approval of the Governor General in Council, but shall be

forthwith reported to the Governor General in Council and shall be subject to his orders.

(2) When a committee is so superseded, the following consequences shall ensue:—

(a) all members of the committee shall, from the date of the notification, vacate their offices as such members:

(b) all powers and duties of the committee may, until the committee is reconstituted, be exercised and performed by such person as the Local Government appoints in that behalf:

(c) all property vested in the committee shall, until the committee is reconstituted, vest in Her Majesty.

(3) The Local Government shall, as soon as, in its judgment, conveniently may be, constitute another committee in the place of any committee superseded under this section.

Disputes.

153. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more committees constituted under this Act, or between any such committee and a district board or cantonment authority, the matter shall be referred—

(a) to the Deputy Commissioner, if the local authorities concerned are in the same district:

(b) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and

(c) to the Local Government, if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (a), the Deputy Commissioner is a member of one of the committees or boards concerned, his functions under the section shall be discharged by the Commissioner.

(4) "Local authority" in this section means a municipal committee, district board or cantonment authority.

Power of Local Government to frame forms and make rules.

154. The Local Government may frame forms for any proceeding of a committee for which it considers that a form should be provided, and make rules consistent with this Act—

(a) with respect to the powers and duties of committees in municipalities of the first and of the second class respectively;

(b) as to the division of the municipality into wards, or of the inhabitants into classes, or both;

(c) as to the number of representatives proper for each ward or class;

(d) as to the qualifications of electors and of candidates for election;

(e) as to the registration of electors;

(f) as to the nomination of candidates, the time of election and the mode of recording votes;

(*g*) generally for regulating all elections under this Act;
(*h*) fixing the term of office of members and presidents of committees;
(*i*) prescribing the qualifications requisite in the case of persons appointed by a committee to offices requiring professional skill;
(*j*) as to the exhibition of tables of octroi, the system under which refunds shall be made on account of that tax when the goods on which the tax has been paid are again exported, and the storage of goods declared not to be intended for use or consumption within the municipality into which they are brought;
(*k*) as to the exhibition of tables showing the rates of tolls chargeable on vehicles and animals entering the municipality; and
(*l*) generally as to the assessment and collection of taxes imposed under this Act and the fees payable in respect of notices of demand;
(*m*) as to the priority to be given to the several duties of the committee;
(*n*) as to the authority on which money may be paid from the municipal fund;
(*o*) as to the appointment, promotion, dismissal, suspension, reduction and fining of municipal watchmen;
(*p*) as to the conditions on which property vested in the committee may be transferred by sale, mortgage, lease, exchange or otherwise;
(*q*) as to the intermediate office or offices, if any, through which correspondence between committees or members of committees and the Local Government or officers of that Government shall pass;
(*r*) as to the preparation of plans and estimates for works to be partly or wholly constructed at the expense of committees, and as to the person by whom, and the conditions subject to which, such plans and estimates may be sanctioned;
(*s*) as to the accounts to be kept by committees, as to the conditions on which such accounts shall be open to inspection by inhabitants paying any tax under this Act, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;
(*t*) as to the preparation of estimates of income and expenditure of committees, and as to the person by whom, and the conditions subject to which, such estimates may be sanctioned;
(*u*) as to the returns, statements and reports to be submitted by committees;
(*v*) as to the powers to be exercised by Commissioners and Deputy Commissioners under section 151;
(*w*) as to the language in which business shall be transacted, proceedings recorded and notices issued;
(*x*) as to the publication of notices; and
(*y*) generally for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

155. In all matters connected with this Act the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

General powers of Local Government and Commissioners.

CHAPTER IX.

SUPPLEMENTAL.

Prosecutions.

156. Prosecutions for offences against this Act or the rules made under it shall not be instituted except by order of, or with the approval of, the committee.

Authority for prosecutions.

157. A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any such prosecution within the meaning of section 555 of the Code of Criminal Procedure merely because he is a member of the committee by the order or with the approval of which it has been instituted.

Judge being a member not to be deemed interested in prosecution.

X of 1882.

158. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it:

Saving of prosecutions under other laws.

Provided that a person shall not be punished twice for the same offence.

Rules.

159. (*1*) The authority empowered to make rules under section 119, section 120 or section 154 shall, before making them, publish, in such manner as may, in its opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules.

(*2*) If, on such consideration of the draft, any modification is made, the Local Government shall determine whether it is necessary to republish the draft under this section.

(*3*) Every rule made under any of the said sections shall be notified in English, and in such other language or languages as the Local Government may direct; and such notification shall be conclusive evidence that the rule has been made as is required by this section.

160. (*1*) A copy of all rules made under this Act shall be kept at the committee's office, and shall be open during office-hours without charge to the inspection of any inhabitant.

Rules to be available for purchase and inspection.

(*2*) Copies of all such rules shall be kept at the committee's office for sale to the public at a reasonable price.

161. (*1*) The Local Government may, by notification, direct that any

Continuance

of existing rules.

rules, regulations or byelaws made under the Punjab Municipal Act, 1873,[a] or any Act thereby repealed, and in force in any local area being or comprised in a municipality constituted under this Act when the committee for that municipality comes into existence under section 11, shall, so far as they are consistent with this Act and within the powers conferred thereby, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made. IV of 1873.

(2) The authority empowered to make such new rules shall, as soon as may be, make them, and take such action as may be requisite for bringing them into force.

Notices.

Authentication, service and validity of notices.

162. (1) Every notice issued by a committee under this Act or under any rule made thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president or secretary, and may be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be posted on some conspicuous part of his place of abode or business.

(2) If the place or abode of business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the place or abode of business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) If the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act or under any rule made thereunder shall be invalid for defect of form.

Mode of giving notice to owner or occupier who is unknown.

163. When any notice is under the provisions of this Act to be given to or served on the owner or occupier of any property and he is unknown, it may be given or served—

(a) by delivering a written notice to some person on the property, or, if there is no person on the property to whom it can be delivered, by fixing it on some conspicuous part of the property; or

(b) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

Publication of public notices.

164. Every public notice given by a committee under this Act or under any rule made thereunder shall be published by proclamation or in such other manner as the Local Government may, by rule, direct.

Act IV of 1873 was superseded by this Act, see s. 12, cl. (a), *supra*, p 198.

Alteration of Boundaries and Class of Municipalities.

165. The Local Government may, by notification published in the official Gazette, and in such other manner as it may determine, declare its intention— **Notification of intention to alter limits of municipality.**

(*a*) to exclude from a municipality any local area comprised therein and defined in the notification; or

(*b*) to include within a municipality any local area in the vicinity of the same and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor General in Council.

166. (*1*) Any inhabitant of a municipality or local area in respect of which a notification has been published under section 165 may, if he objects to the alteration proposed, submit his objection in writing through the Deputy Commissioner to the Local Government within six weeks from the publication of the notification in the Gazette; and the Local Government shall take his objection into consideration. **Alteration of limits of municipality.**

(*2*) When six weeks from the publication of the notification in the Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (*1*), the Local Government may, by notification, exclude the local area from the municipality or include it therein, as the case may be.

167. When a local area is excluded from a municipality under section 166,— **Effect of exclusion of local area from municipality.**

(*a*) this Act, and all rules, orders, directions and powers made, issued or conferred under this Act, shall cease to apply thereto; and

(*b*) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the scheme being notified, the property and liabilities shall vest and be apportioned accordingly.

(*2*) All property vested in Her Majesty under sub-section (*1*) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the local area.

168. When a local area is included in a municipality under section 166, this Act, and, except as the Local Government may otherwise by notification direct, all rules, orders, directions and powers made, issued or conferred under **Effect of including local area in municipality.**

this Act and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

Power to change class of municipality.

169. The Local Government may, after consulting the committee, direct, by notification, that any municipality be transferred from one class to another.

Powers to except and withdraw Municipalities from provisions of Act.

Power to except municipality from provisions of Act unsuited thereto.

170. (*1*) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until again applied thereto by notification.

(*2*) While the exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

Power to withdraw municipal area altogether from operation of this Act or Act IV of 1873.

171. (*1*) The Local Government may, by notification, withdraw the local area comprised in any municipality constituted under this Act or the Punjab Municipal Act, 1873,[a] from the operation of the same.

(*2*) When a notification is issued under this section in respect of any local area, the Act, and all rules, bye-laws, orders, directions and powers made, issued or conferred under the Act, shall cease to apply to the local area; the balance of the municipal fund, and all other property which at the time of the issue of the notification is vested in the municipal committee, shall vest in Her Majesty; and the liabilities of the committee shall be transferred to the Secretary of State for India in Council. IV of 1873.

(*3*) All property vested in Her Majesty under sub-section (*2*) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the local area.

Miscellaneous.

Recovery of taxes, &c.

172. Any arrears of any tax or fee or any other money claimable by a committee under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property within those limits belonging to the person from whom the money is claimable.

Powers of Governor General in Council and of Local Government exerciseable from time to time.

173. All powers conferred by this Act on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

Relief to agents and trustees.

174. (*1*) When a person, by reason of his receiving the rent of immoveable property as agent or trustee, or of his being as agent or trustee, the person

[a] Act IV of 1873 was superseded by this Act, see s. 12, cl. (a), *supra*, p. 198.

who would receive the rent if the property were let to a tenant, would, under this Act, be bound to discharge any obligation imposed by this Act on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own act or default might have had, in his hands funds belonging to the owner sufficient for the purpose.

(*2*) The burden of proving the facts entitling an agent or trustee to relief under this section shall lie on him.

Decision of question as to whether persons are "inhabitants."

175. If any question arises whether a person or persons of a specified class is or are an inhabitant or inhabitants of a local area within the meaning of this Act, the decision thereon of the Local Government shall be conclusive.

Saving of Act XI of 1879.

XI of 1879. 176. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Simla Land-tax.

WHEREAS there is at present levied on certain lands situate in the municipality of Simla a tax at the rate of ten rupees per two thousand five hundred square yards or fraction of two thousand five hundred square yards; It is hereby enacted as follows :—

Simla land-tax continued.

177. (*1*) The said tax shall, unless and until a committee under this Act comes into existence for the local area comprised in that municipality, be deemed to be a tax lawfully imposed and assessed under the Punjab Municipal Act, 1873,[a] and leviable in addition to any other tax leviable under that Act.

IV of 1873.

(*2*) If a committee under this Act comes into existence for that local area, the said tax shall be deemed to be a tax lawfully imposed and assessed under this Act and leviable in addition to any other tax leviable hereunder

---

SCHEDULE.

(*List of places referred to in section 39.*)

SIMLA.	DALHOUSIE.
DHARMSÁLA.	MURREE.

ACT No. XIV OF 1884.

Received the Governor General's assent on the 28th August, 1884.

An Act for the validation of decisions passed by certain Settlement-officers in the Punjab.

XIX of 1865. WHEREAS section 21 of the Punjab Courts Act, 1865,[b] after conferring

[a] Act IV of 1873 was superseded by this Act, see s. 12, cl. (a), *supra*, p. 198.

[b] Act XIX of 1865 was repealed by Act XVII of 1877, s. 2 and Sch.

certain powers on the Local Government in any district in which a settlement of land-revenue might be in progress, provided as follows, namely :—"The Local Government may also, with the previous sanction of the Governor General of India in Council, invest any special officer in such district with the civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsildár, as defined in this Act, for the purpose of deciding suits in respect to land, or the rent, revenue or produce of land, such powers to be exercised on the Revenue side";

and whereas doubts have recently been raised as to whether the said section conferred power to invest a special officer as aforesaid with power to decide appeals in such suits;

and whereas section 49 of the Punjab Courts Act, 1877,[a] provides that the Local Government may, from time to time, by notification in the official Gazette, invest any officer making or controlling a settlement of land-revenue in any local area with all or any of the powers of any Court constituted under that Act, for the purpose of trying all or any specified class of suits and appeals relating to land, or the rent, revenue or produce of land, arising in that local area; XVII of 1877.

and whereas certain officers making or controlling settlements of land-revenue have decided suits of the description mentioned in section 21 of the Punjab Courts Act, 1865,[b] or section 49 of the Punjab Courts Act, 1877,[a] and appeals in such suits, without being invested with power to decide the same; XIX of 1865. XVII of 1877.

and whereas it is apprehended that certain officers making or controlling settlements of land-revenue have exercised judicial powers when at places beyond the local limits of their jurisdiction;

and whereas for the quieting of titles and the avoidance of litigation it is expedient that the decisions passed by officers engaged in making or controlling settlements in suits of the description mentioned in section 21 of the Punjab Courts Act, 1865,[b] and in section 49 of the Punjab Courts Act, 1877,[a] and in appeals in such suits, should not be impeached for want of authority in such officers, and that the validity of such decisions should be affirmed; XIX of 1865. XVII of 1877

It is hereby enacted as follows:—

Construction of section 21 of Act XIX of 1865.

1. In the portion of section 21 of the Punjab Courts Act, 1865,[b] hereinbefore recited the word "suits" shall be deemed to have always included appeals.

Validation of decisions of certain unauthorized officers.

2. When any officer making or controlling a settlement of land revenue has decided a suit of the description mentioned in section 21 of the Punjab Courts Act, 1865,[b] or section 49 of the Punjab Courts Act, 1877,[a] or an appeal in any such suit, and his decision would, if he had been duly invested with XIX of 1865. XVII of 1877.

---

[a] Act XVII of 1877 was repealed (except section 18) by Act XVIII of 1884, s. 2 and Sch.
[b] Act XIX of 1865 was repealed by Act XVII of 1877, s. 2 and Sch.

power under either of those sections to decide such suits or appeals, have been valid, the decision shall not be deemed invalid or deprived of any of its effect by reason of the objection that he was not so invested:

Provided that a decision heretofore declared by any competent Court to be invalid on the ground that the officer who decided the suit or appeal was not authorized to decide the same shall not be rendered valid by this section.

Validation of decisions passed beyond local limits of jurisdiction.

3. When the decision of an officer making or controlling a settlement of land-revenue would be deemed valid if it had been passed by him within a particular local area, it shall not be deemed invalid or deprived of any of its effect by reason of the objection that at the time when he passed it he was beyond the limits of that local area.

THE PUNJAB COURTS ACT, 1884.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, local extent and commencement
2. Repeal of Acts.
3. Definitions.

CHAPTER II.

THE CHIEF COURT.

4. Constitution of Chief Court, appointment of Judges and tenure of office.
5. Rank and precedence of Judges of Chief Court.
6. Civil appellate jurisdiction.
7. Criminal jurisdiction.
8. Delegation of powers to members of Court.
9. Appeals from original jurisdiction of Chief Court.
10. Rule of decision when Judges differ.
11. Power to refer question to full bench.
12. Ministerial officers.
13. Superintendence and control of Subordinate Courts.
14. Power to make rules.
15. Registers, books, accounts and statements to be kept and furnished by Chief Court.
16. Procedure of Chief Court in exercise of civil jurisdiction.

CHAPTER III.

THE SUBORDINATE CIVIL COURTS.

Classes of Courts.

SECTIONS.

17. Classes of Courts.

Territorial Divisions.

18. Civil divisions and districts.

Divisional and District Courts.

19. Establishment of Divisional Courts.
20. Establishment of District Courts.
21. Distribution of business in Divisional Court.
22. Original jurisdiction of Divisional and District Courts in suits.
23. District Court to be principal Civil Court of original jurisdiction.

Subordinate Judges and Munsifs.

24. Appointment of Subordinate Judges.
25. Appointment of Munsifs.
26. Pecuniary limits of jurisdiction of Subordinate Judges and Munsifs.
27. Local limits of their jurisdiction.
28. Special Judges and Benches.
29. Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Court.

Small Cause Jurisdiction.

30. Power to confer Small Cause Court jurisdiction.

Suspension and Removal.

31. Suspension and removal.

Valuation of Suits.

32. [*Rep. by Act VII of 1887, s. 10*]

Administrative Control.

33. Controlling powers of Divisional and District Courts.
34. Power of Divisional Court to transfer business.
35. Power to distribute business.
36. Ministerial officers of Subordinate Courts.
37. Power to fine ministerial officers.
38. Delegation of District Judge's powers.

CHAPTER IV.

APPELLATE JURISDICTION IN CIVIL CASES.

SECTIONS.

39. First appeals to whom to lie.
40. Further appeal from Divisional Court.
41. Appellate decision of District or Divisional Court when final.
42. Power to confer appellate jurisdiction on Subordinate Judge.
43. Period of limitation.
44. References to Chief Court under section 617 of Code of Civil Procedure.

CHAPTER V.

REVENUE COURTS.

[*Rep. by Act XVI of 1887, s. 3 and Sch.*]

CHAPTER VI.

SETTLEMENT COURTS.

[*Rep. by Act XVII of 1887, s. 2 and Sch.*]

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

64. Mode of appointment and conferring powers.
65. Powers exerciseable from time to time.
66. Place of sitting of Courts.
67. Vacations.
68. Pending proceedings.
69. Appeals after Act comes into force against decrees, &c., passed before.
70. Modification of section 622 of Civil Procedure Code.
71. Amendment of the first schedule annexed to the Court-fees Act, 1870.
72. Refund of fee paid on application for revision.
73. Saving of certain appointments, rules and forms, notifications, powers and orders.
74. Amendment of Act X of 1870, section 3.
75. [*Rep. by Act XVI of 1887, s. 3 and Sch.*]

THE SCHEDULE.—ACTS REPEALED.

ACT No. XVIII OF 1884.

Received the Governor General's assent on the 3rd October, 1884.

An Act to amend the Law relating to Courts in the Punjab.

WHEREAS it is expedient to amend the law relating to Courts in the Punjab; and whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, local extent and commencement.

1. (*1*) This Act may be called the Punjab Courts Act, 1884.

(*2*) It extends to the territories for the time being under the administration of the Lieutenant-Governor of the Punjab; and

(*3*) It shall come into force on the first day of November, 1884.

(*4*) Any power conferred by this Act to make rules or to issue orders creating territorial divisions, establishing Courts, appointing and posting officers, or fixing the pecuniary or local limits of their jurisdiction or conferring powers may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

Repeal of Acts.

2. On and from that day the Acts mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

Definitions.

[a] 3. In this Act, unless there is something repugnant in the subject or context,—

(*3*) "small cause" means a suit of the nature cognizable in a Court of Small Causes constituted under Act IX of 1887,[b] and any other suit not being a suit of any description specified in section 19 of the Presidency Small Cause Courts Act, 1882, which the Chief Court, with the sanction of the Local Government, may direct to be treated as a small cause for the purposes of appeal: XV of 1882.

(*8*) "value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

CHAPTER II.

THE CHIEF COURT

Constitution of Chief Court, appointment of Judges and tenure of office.

4. There shall continue to be a Chief Court consisting of three or more Judges, who shall be appointed by the Governor General in Council and shall hold their offices during his pleasure, and of whom one at least shall always be a barrister of not less than five years' standing.

---

[a] Clauses (*1*), (*2*), (*4*), (*5*), (*6*) and (*7*) of s. 3 were repealed by Act XVI of 1887, s. 3 and Sch

[b] Substituted for Act XI of 1865—see Act IX of 1887, s. 2(*3*).

5. The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges:

Rank and precedence of Judges of Chief Court.

Provided that a Judge permanently appointed shall be deemed senior to an officiating Judge.

6. The Chief Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Civil appellate jurisdiction.

7. The Chief Court shall be the highest Court of criminal appeal or revision in the said territories, and shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial.

Criminal jurisdiction.

8. (*1*) Except as by this Act or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide, in such manner as it thinks fit, for the exercise by one or more of its Judges of any of its powers:

Delegation of powers to members of Court.

Provided that no decree, sentence, decision or order of any Court, not being an order within the meaning of the Code of Civil Procedure, shall be reversed or modified by any Judge of the Chief Court sitting alone.

XIV of 1882.

(*2*) When the Chief Court consists of more than three Judges, it may make rules declaring what number of Judges, not being less than three, shall constitute a full bench of the Court, and may by these rules prescribe the mode of determining which Judges shall sit as a full bench, when a full bench sitting becomes necessary.

(*3*) Subject to the provisions of sub-section (*2*), the Senior Judge may determine which Judge in each case shall sit alone, and which Judges of the Court shall constitute any bench.

9. Except as otherwise provided by any enactment for the time being in force, an appeal from any decree or order made by the Chief Court—

Appeals from original jurisdiction of Chief Court.

(*a*) in exercise of its original jurisdiction in cases withdrawn from other Courts under section 25 of the Code of Civil Procedure, or

(*b*) in exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section,—

shall lie in the cases and in manner following (that is to say):—

(*1*) if the decree or order is made by a single Judge, the appeal shall lie either to a bench consisting of two other Judges, or to a full bench, as the Court may, by general rule or special order, direct;

(*2*) if the decree or order is made by a bench of Judges not being a full bench, and the Judges differ in opinion, the appeal shall lie to a full bench.

10. Except as otherwise provided by any enactment for the time being in force,

Rule of decision when Judges differ.

(*1*) when there is a difference of opinion among the Judges composing any bench of the Chief Court, the decision shall be in accordance with the opinion of the majority of those Judges;

(*2*) If there is no such majority, then,—

(*a*) if the bench is a full bench, or is exercising original civil jurisdiction, the decision shall be in accordance with the opinion of the Senior Judge;

(*b*) in other cases, the bench before which the question has arisen shall refer the question to a full bench, and shall dispose of the case in accordance with the decision of the full bench.

Power to refer question to full bench.

11. Any single Judge of the Chief Court and any bench of Judges of that Court, not being a full bench, may in any case refer for the decision of a full bench any question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence arising before the Judge or bench, and shall dispose of the case in accordance with the decision of the full bench on the question.

Ministerial officers.

12. (*1*) The Chief Court may appoint a Registrar and Deputy Registrar, and such other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act.

(*2*) The appointment of the Registrar shall be subject to the sanction of the Local Government.

(*3*) The officers appointed under this section shall exercise such powers and discharge such duties of a non-judicial or quasi-judicial nature as the Chief Court may direct.

(*4*) Any such officer may be suspended or dismissed from his office by order of the Chief Court:

Provided that neither the Registrar nor the Deputy Registrar shall be dismissed without the previous sanction of the Local Government.

Superintendence and control of Subordinate Courts.

13. The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Chief Court.

Power to make rules.

14. (*1*) The Chief Court may make rules consistent with this Act and any other enactment for the time being in force—

(*a*) providing for the translation of any papers filed in the Chief Court and copying or printing any such papers or translations, and requiring from the persons at whose instance or on whose behalf they are filed payment of the expenses thereby incurred;

(*b*) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Punjab, and regulating the conduct of persons so practising;

(*c*) determining in what cases persons practising in those Courts shall be permitted to address the Court in English;

(*d*) prescribing forms for seals to be used by those Courts:

(*e*) regulating the procedure in cases where any person is entitled to inspect a record of any such Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;

(*f*) conferring and imposing on the ministerial officers of the Courts subject to its superintendence such powers and duties of a non-judicial or quasi-judicial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(*g*) prescribing forms for such books, entries, statistics and accounts as it thinks necessary to be kept, made or compiled in those Courts or submitted to any authority;

(*h*) providing for the inspection of those Courts and the supervision of the working thereof, and

(*i*) regulating all such matters as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts and maintaining proper discipline among those officers:

(*2*) A rule made under clause (*a*), (*b*), (*c*), (*f*), (*g*), (*h*) or (*i*) shall not take effect until it has been sanctioned by the Local Government and has been published in the official Gazette.

(*3*) Whoever breaks any rule made under clause (*b*) shall be punished with a fine which may extend to fifty rupees.

Registers, books, accounts and statements to be kept and furnished by Chief Court.

15. (*1*) The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Local Government such of those registers, books and accounts, and such statements of the work done in the Court, as may be required by the said Government.

(*2*) The Chief Court shall also comply with such requisitions as may be made by the Governor General in Council, or by the Local Government, for certified copies of, or extracts from, the records of the Chief Court and the Courts subordinate thereto.

Procedure of Chief Court in exercise of civil jurisdiction.

16. (*1*) The Chief Court, when sitting as a Court of civil judicature, shall take evidence and record judgments and orders in such manner as it, by rule, directs, and may frame forms for any proceeding in the Court in the exercise of its civil jurisdiction.

XIV of 1882.

(*2*) The following provisions of the Code of Civil Procedure shall not apply to the Chief Court in the exercise of its original civil jurisdiction, namely, sections 119, 182 to 185 (both inclusive), 187, 189 to 191 (both inclusive), 192 (so far as it relates to the manner of taking evidence), 198, 200 to 204 (both inclusive), and so much of section 409 as relates to the making of a memorandum.

(*3*) Section 579 of the said Code shall not apply to the Chief Court in the exercise of its appellate jurisdiction.

CHAPTER III.

THE SUBORDINATE CIVIL COURTS.

Classes of Courts.

Classes of Courts.

17. Besides the Chief Court, the Courts of Small Causes established under Act IX of 1887[a] and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts (namely):—

(*a*) the Divisional Court;

(*b*) the Court of the District Judge;

(*c*) the Court of the Subordinate Judge;

(*d*) the Court of the Munsif.

Territorial Divisions.

Civil divisions and districts.

18. (*1*) For the purposes of this Act the Local Government shall divide the territories under its administration into civil divisions, and each civil division into civil districts.

(*2*) The Local Government may alter the limits or the number of these divisions and districts.

Divisional and District Courts.

Establishment of Divisional Courts.

19. (*1*) The Local Government shall appoint as many persons as it thinks necessary to be Divisional Judges, and shall for each civil division establish a Divisional Court consisting of one or more such Judges.

(*2*) The Local Government may, where a Divisional Court consists of more than one Judge, by general rule or special order determine which of them shall be deemed to be the senior.

Establishment of District Courts.

20. The Local Government shall appoint as many persons as it thinks necessary to be District Judges, and shall post one such person to each district as District Judge of that district:

Provided that the same person may, if the Local Government thinks fit, be appointed to be District Judge of two or more districts.

Distribution of business in Divisional Court.

21. The Chief Court may, subject to the provisions of this Act and any other enactment for the time being in force, make rules to provide for the exercise of any of the powers of a Divisional Court consisting of more than one Judge by one or more Judges of the Court:

Provided that no decree, decision or order of any Court, not being an order within the meaning of the Code of Civil Procedure, shall be reversed or modified by a single Judge of a Divisional Court consisting of more than one Judge. XIV of 1882.

Original jurisdiction of Divisional and District Courts in suits.

22. Except as otherwise provided by any enactment for the time being in force, the Divisional Court and the Court of the District Judge shall have jurisdiction in original civil suits without limit as regards the value.

---

[a] Substituted for Act XI of 1865—see Act IX of 1887, s. 2 (*3*).

23. Except as otherwise provided by any enactment for the time being in force, the Court of the District Judge shall be deemed to be the District Court or principal Civil Court of original jurisdiction in the district: **District Court to be principal Civil Court of original jurisdiction.**

Provided that—

IV of 1869. (*a*) for the purposes of the Indian Divorce Act, the Divisional Court shall be deemed to be the District Court for all districts comprised in the division; and

(*b*) the Local Government may direct that the Divisional Court shall for any other purpose be deemed to be the District Court or principal Civil Court of original jurisdiction for any district comprised in the division.

Subordinate Judges and Munsifs.

24. The Local Government may appoint as many persons as it thinks necessary to be Subordinate Judges. **Appointment of Subordinate Judges.**

25. (*1*) The Local Government may fix the number of Munsifs to be appointed, and, when there is any vacancy in that number, the Chief Court may, subject to the rules (if any) made under sub-section (*2*), appoint such person to the same as it thinks fit. **Appointment of Munsifs.**

(*2*) The Chief Court may, with the previous sanction of the Local Government, make rules as to the qualifications of persons to be appointed Munsifs.

26. (*1*) The jurisdiction to be exercised in original civil suits as regards the value by any person appointed to be a Subordinate Judge or Munsif shall, in the case of a Subordinate Judge, be determined by the Local Government, and, in the case of a Munsif, by the Chief Court, either by including him in a class or grade, or otherwise as it thinks fit. **Pecuniary limits of jurisdiction of Subordinate Judges and Munsifs.**

(*2*) The jurisdiction in the case of a Subordinate Judge may be without limit, but in the case of a Munsif shall not extend to suits the value of which exceeds one thousand rupees.

27. (*1*) The local limits of the jurisdiction of a Subordinate Judge shall be such as the Local Government may define. **Local limits of their jurisdiction.**

(*2*) The local limits of the jurisdiction of a Munsif shall be such as the Chief Court may define.

(*3*) When the Local Government posts a Subordinate Judge, or the Chief Court posts a Munsif, to a district, the local limits of the district shall, in the absence of any direction to the contrary, be deemed to be the local limits of his jurisdiction.

28. (*1*) The Local Government may confer on any person all or any of the powers conferable under this Act on a Subordinate Judge or Munsif with respect to particular classes of cases, or with respect to cases generally in any local area, and may withdraw, or suspend the exercise of, any powers so conferred. **Special Judges and Benches.**

(*2*) The Local Government may direct any uneven number of persons

invested with powers of the same description and exerciseable within the same local area under this section to sit together as a bench; and those powers shall, while the direction remains in force, be exercised by the bench so constituted, and not otherwise.

(*3*) The decision of the majority of the members of a bench constituted under this section shall be deemed to be the decision of the bench.

(*4*) Persons on whom powers are conferred under this section shall be called Special Judges, and such persons and the benches constituted under this section shall be deemed, for the purposes of this Act, to be Subordinate Judges or Munsifs, as the Local Government may direct.

Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Court.

29. (*1*) The Chief Court may, by order, authorize any District Court to transfer to a Subordinate Judge or Munsif under its control any of the following proceedings or any class of such proceedings specified in the order, and then pending or thereafter instituted before the District Court (that is to say) :—

(*a*) applications for certificates under Act XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*);

(*b*) proceedings under Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) or Act IX of 1861 (*to amend the law relating to Minors*).

(*2*) The District Court may withdraw any proceedings so transferred, and may either itself dispose of them, or, with the previous sanction of the Chief Court, transfer them to any other Subordinate Judge or Munsif under its control.

(*3*) All proceedings so transferred shall be disposed of by the Subordinate Judge or Munsif (as the case may be) subject to the rules applicable to like cases when disposed of by the District Court.

Small Cause Jurisdiction.

Power to confer Small Cause Court jurisdiction.

30. The Local Government may confer, within such local limits as it thinks fit, upon any District Judge, Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under Act IX of 1887[a] for the trial of suits cognizable by such Courts up to such value, not exceeding five hundred rupees, as it thinks fit, and may withdraw any jurisdiction so conferred.

Suspension and Removal.

Suspension and removal.

31. (*1*) Any Divisional Judge, District Judge or Subordinate Judge may be suspended or removed from office by the Local Government.

---

[a] Substituted for Act XI of 1865—see Act IX of 1887, s. 2 (*3*).

(2) Any Munsif may, subject to the control of the Local Government, be suspended or removed from office by the Chief Court

Valuation of Suits.

32. [*Rep. by Act VII of 1887, s. 10.*] Valuation of suits.

Administrative Control.

33. (1) Subject to the general superintendence and control of the Chief Court, every Divisional Court shall control all other Civil Courts in the division. Controlling powers of Divisional and District Courts.

(2) Subject as aforesaid and to the control of the Divisional Court, every District Court shall control all other Civil Courts in the district.

34. (1) Every Divisional Court may exercise, as regards the Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. Power of Divisional Court to transfer business. XIV of 1882.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

35. Notwithstanding anything contained in the Code of Civil Procedure, every Divisional Court and District Court may, by written order, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit: Power to distribute business.

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

36. (1) The ministerial officers of the Divisional and District Courts and Courts of Small Causes shall be appointed, and may be suspended and dismissed, by the Judges of those Courts respectively: Ministerial officers of Subordinate Courts.

(2) The ministerial officers of all Courts controlled by a District Court, other than Courts of Small Causes, shall be appointed, and may be suspended and dismissed, by the District Court.

(3) Every appointment under this section shall be subject to such rules as the Local Government prescribes in this behalf, and, in dealing with any matter under this section, a District Court or a Judge of a Court of Small Causes shall act subject to the control of the Divisional Court.

37. (1) A Divisional or District Court or any Court under the control of a District Court may fine, in an amount not exceeding one month's salary, any ministerial officer of the Court for misconduct or neglect in the performance of his duties. Power to fine ministerial officers.

(2) The District Court, subject to the general control of the Divisional Court, may, on appeal or otherwise, reverse or modify an order made under sub-section (1) by any Court under its control other than a Court of Small Causes, and may of its own motion fine up to the amount of one month's

salary any ministerial officer of any Court under its control other than a Court of Small Causes.

Delegation of District Judge's powers.

38. A District Court may, with the previous sanction of the Local Government, delegate to any Subordinate Judge in the district the powers conferred on a District Court by sections 33, 35 and 36 of this Act, and section 25 of the Code of Civil Procedure, to be exercised by the Subordinate Judge in any specified portion of the district subject to the control of the District Court. XIV of 1882.

CHAPTER IV.

APPELLATE JURISDICTION IN CIVIL CASES.

First appeals to whom to lie.

39. (*1*) Appeals from the decrees of a Munsif in small causes shall, when such appeals are allowed by law, and the value of the suit does not exceed five hundred rupees, lie to the District Judge.

(*2*) Appeals from the decrees of a District or Subordinate Judge in original suits, when the value of the suit exceeds five thousand rupees, and appeals from the decrees of the Divisional Court in original suits, shall, when such appeals are allowed by law, lie to the Chief Court.

(*3*). Appeals from decrees in original suits, not hereinbefore or by any other enactment for the time being in force provided for, shall, when such appeals are allowed by law, lie to the Divisional Court.

Further appeal from Divisional Court.

40. A further appeal shall lie to the Chief Court in the following cases from an appellate decree of a Divisional Court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, namely:—

(*a*) if the value of the suit exceeds five hundred rupees, or the decree involves directly some claim to, or question respecting, property of like value;

(*b*) if the Divisional Court consists of a single Judge and the decree varies or reverses the decree of the Court below;

(*c*) if in a Divisional Court consisting of more than one Judge the appeal is heard by two or more Judges, and there is not a majority of those Judges concurring in the decree passed by the Divisional Court;

(*d*) if on the application of any party a Judge of the Divisional Court certifies that there is a question of law or custom or of general interest involved, and that the case is in his opinion of sufficient importance to justify a further appeal:

Provided that—

(*1*) an application under clause (*d*) shall not be received after the expiration of thirty days from the date on which the decree of the Divisional Court is passed, unless the applicant satisfies the Judge that he had sufficient cause for not presenting it within that period; and

(2) no further appeal shall lie in any small cause when the value of the suit does not exceed five hundred rupees.

Appellate decision of District or Divisional Court when final.

XIV of 1882. 41. Subject to the provisions of section 40 of this Act and sections 595 and 622 of the Code of Civil Procedure, a decree of the District or Divisional Court passed in appeal shall be final.

Power to confer appellate jurisdiction on Subordinate Judge.

42. (1) The Local Government may confer on a Subordinate Judge the powers of a District Judge for the purpose of hearing appeals from the Courts of Munsifs in any local area, and withdraw those powers.

(2) A Subordinate Judge shall, for purposes connected with the exercise of powers so conferred, be deemed to be a District Judge.

Period of limitation.

43. (1) The period of limitation for an appeal under section 39 or section 40 shall run from the date of the decree appealed against, and shall be as follows, that is to say:—

(a) when the appeal lies to the District or Divisional Court—sixty days;

(b) when the appeal lies to the Chief Court—ninety days.

(2) In computing these periods of sixty and ninety days, and in all respects not herein specified, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877:

XV of 1877.

Provided that, in computing the period of ninety days for an appeal under section 40, clause (d), the time during which the application under that clause has been pending shall be excluded.

References to Chief Court under section 617 of Code of Civil Procedure.

XIV of 1882. 44. For the purposes of section 617 of the Code of Civil Procedure, every appeal to a Divisional Court under this chapter shall, except when the value of the suit exceeds five hundred rupees, be deemed to be an appeal in which the decree is final.

CHAPTER V.

Revenue Courts.

45—61. [*Rep. by Act XVI of 1887, s. 3 and Sch.*]

CHAPTER VI.

Settlement Courts.

62—63. [*Rep. by Act XVII of 1887, s. 2 and Sch.*]

CHAPTER VII.

Supplemental Provisions.

Mode of appointment

64. Except as otherwise provided by this Act, the Local Government may, when it is empowered by this Act to make any appointment or confer any

and conferring powers.

powers, appoint, or confer the powers on, any person specially by name or by virtue of his office.

Powers exerciseable from time to time.

65. All powers conferred by this Act may be exercised from time to time, as occasion requires.

Place of sitting of Courts.

66. (*1*) The Local Government may fix the place or places at which any Court under this Act is to be held.

(*2*) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(*3*) Except as may be otherwise provided by any order under this section, a Court under this Act may be held at any place within the local limits of its jurisdiction.

Vacations.

67. (*1*) Subject to the approval of the Local Government, the Chief Court shall prepare a list of days to be observed in each year as holidays in the Chief Court and the Civil Courts subordinate thereto.[a]

(*2*) Every such list shall be published in the official Gazette.

Pending proceedings.

68. (*1*) All cases or proceedings pending in the Chief Court on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

(*2*) All cases or proceedings pending in any Civil Court subordinate to the Chief Court on that day shall be disposed of as if this Act had not been passed:

Provided that the Chief Court may direct that any such cases or proceedings shall be transferred for disposal to any Civil Court established under this Act which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(*3*) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section (*2*), be deemed to be the Court which would have had jurisdiction as aforesaid, namely:—

(*a*) when the value of the suit exceeds five thousand rupees—the Chief Court;

(*b*) when the appeal is one in a small cause, and is pending before the Deputy Commissioner or an officer invested with the appellate powers of a Deputy Commissioner and the value of the suit does not exceed five hundred rupees—the District Court;

(*c*) in other cases—the Divisional Court.

Appeals after Act comes into force against decrees, &c., passed before.

69. Appeals from decrees, orders and decisions passed by Civil Courts and not appealed against before the date on which this Act comes into force shall lie and be disposed of as if this Act had not been passed, and not otherwise:

Provided that the Courts to which such appeals shall lie shall be as follows:—

(*a*) when the appeal would before the said date have lain to the Chief

---

[a] The residue of sub-s. (*1*) of s. 67 was repealed by Act XVI of 1887, s. 3 and Sch.

Court, or the value of the suit exceeds five thousand rupees—the Chief Court;

(*b*) in small causes when the value of the suit does not exceed five hundred rupees, and the appeal would before the said date have lain to the Deputy Commissioner, or an officer exercising the appellate powers of a Deputy Commissioner—the District Court;

(*c*) in other cases—the Divisional Court.

XIV of 1882. *70. Section 622 of the Code of Civil Procedure, in its application to the territories to which this Act extends, shall be read as if the words "illegally or" were omitted, and for the purposes of that section no appeal shall be deemed to lie from the appellate decree of a Divisional Court to the Chief Court when the case does not fall under clause (*a*), clause (*b*) or clause (*c*) of section 40, and an application under clause (*d*) of that section has been refused. Modification of section 622 of Civil Procedure Code.

VII of 1870. 71. In the first schedule annexed to the Court-fees Act, 1870, after No. 12, the following shall be inserted:— Amendment of the first schedule annexed to the Court-fees Act, 1870.

NUMBER.		PROPER FEE.
13. Application to the Chief Court or the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 622 of the Code of Civil Procedure.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.	Two rupees.
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal.

XIV of 1882. 72. If the Court, on an application under section 622 of the Civil Procedure Code, on which a fee has been paid under the last preceding section, sets aside or modifies the decree or order of a Subordinate Court, or remands the case for a fresh decision, it may grant to the applicant a certificate authorizing him to receive back from the Collector the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, it may think proper to order to be refunded. Refund of fee paid on application for revision

73. All appointments made under sections 5 and 22 of Act XVII of 1877, directions given under section 23, rules and forms made and prescribed under sections 19, 26 and 27, and notifications published, powers conferred and orders issued under section 49, of the same Act, shall, so far as may be, be deemed to have been respectively made, given, prescribed, published, conferred and issued under this Act. Saving of certain appointments, rules and forms, notifications, powers and orders.

X of 1870. 74. In the Land-acquisition Act, 1870, section 3, before the words "British Amendment of Act X of

* So far as regards Revenue Courts, s. 70 has been repealed by Act XVI of 1887, s. 3 and Sch.

1870, section 3.

Burma," in both places where they occur, the words "the Punjab" shall be inserted.

Amendment of Act XXVIII of 1868, s. 42.

75. [*Rep. by Act XVI of 1887, s. 3 and Sch.*]

THE SCHEDULE.

ACTS REPEALED.

(*See section 2.*)

Number and year.	Title of Act.	Extent of repeal.
Act IV of 1869	The Indian Divorce Act.	So much of section 3 as defines "District Judge" in the Punjab to mean the "Commissioner of a Division."
Act XIV of 1875	The Punjab Judicial Administration Act, 1875.	So far as it relates to civil or criminal judicial powers.
Act XVII of 1877	The Punjab Courts Act, 1877	The whole, except section 18.

ACT No. VI OF 1885.

Received the Governor General's assent on the 6th February, 1885.

An Act to amend Act XXII of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881; It is hereby enacted as follows:— XXII of 1881.

Amendment of section 28 of said Act.

1. In section 28 of the said Act, after the words "ten rupees" the words "or who receives an annual remuneration equivalent to such salary" shall be inserted.

Amendment of section 29 of same Act.

2. In the first paragraph of section 29 of the same Act, after the word "salary" the words "or annual remuneration" shall be inserted; and in the second paragraph of the same section, after the word "rupees" the words "unless the excise-officer is himself such an officer of police" shall be inserted.

New section inserted after section 34 of same Act.

3. In the same Act, after section 34, the following section shall be inserted:—

"34A. (*Vide supra, p. 147.*)

New section substituted for section 47.

4. For section 47 of the same Act the following shall be substituted, namely:—

"47. (*Vide supra, p. 150.*)

ACT No. IX OF 1885.

Received the Governor General's assent on the 29th May, 1885.

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea-customs Act, 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea-customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

1. [*Omitted, as referring to a general Act.*]

XXII of 1881. 2. For clause (*a*) of section 7 of the Excise Act, 1881, the following clause shall be substituted:— Amendment of section 7 of Act XXII of 1881.

(*Vide supra, p. 141.*)

3. [*Omitted, as applying only to the Lower Provinces of Bengal.*]

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively. Saving of duties already fixed under section 6 of Act XI of 1882.

XI of 1882. XXII of 1881. Ben. Act VII of 1878.

5, 6. [*Omitted, as referring to a general Act.*]

THE LAHORE TRAMWAYS ACT, 1886.

CONTENTS.

Preliminary.

SECTIONS.

1. Short title and commencement.
2. Definitions.

Powers of Grantees generally.

3. Powers to construct, maintain and use tramways.

Construction and Maintenance of Tramways and of Streets on which they are laid.

4. Power to grantees to break up streets and lay rails, &c.

SECTIONS.

5. Grantees to keep tramways and adjoining part of street in repair.
6. Obligations of grantees when they have broken up street.
7. Reservation of power of committee and Government officers over streets.

Rights over Tramways and Streets on which they are laid.

8. Grantees' exclusive right over tramways.
9. Grantees to have right of user only.
10. Power of committee and Government officers to regulate traffic on streets.

Traffic on Tramways.

11. Rates of fares and charges.
12. Mode of payment of fares and charges.
13. Carriage of dangerous or offensive goods.

Offences and Penalties.

14. Penalty for failure of grantees to comply with certain provisions of Act and agreement.
15. Penalty for obstructing grantees in the exercise of their powers.
16. Penalty for interfering with tramway.
17. Penalty for taking dangerous goods without giving notice.
18. Penalty for avoiding payment of proper fare.
19. Power of servant of grantees to arrest persons avoiding payment of fare.

Powers to make Rules.

20. Powers to make rules.

Supplemental Provisions.

21. Commencement of agreement.
22. Construction of clauses 17 and 24 of agreement.
23. Exemption from certain municipal taxation.
24. Transfer of control on exclusion of local area from municipality.
25. Provisions as to other Acts.
26. Saving of prosecutions under other laws.

THE SCHEDULE.

ACT No. I OF 1886.

Received the Governor General's assent on the 6th January, 1886.

An Act to authorise the making, and to regulate the working, of Street Tramways in Lahore.

WHEREAS the municipal committee of Lahore by an agreement, dated the seventh day of February, 1885, a copy whereof is set forth in the schedule

annexed to this Act, granted, for the considerations therein expressed, to David Parkes Masson, John Robson and Arthur Milford Ker, their heirs, executors, administrators and assigns, hereinafter called the grantees, the right to construct, maintain and use a tramway or tramways in Lahore upon the terms, subject to the conditions and in the manner mentioned in the said agreement, and the said agreement was made subject to the confirmation and recognition thereof by the Government of the Punjab;

And whereas the Government of the Punjab has confirmed and recognised the said agreement and it is now expedient that effect be given to it, subject to the provisions and limitations hereinafter contained;

It is hereby enacted as follows:—

Preliminary.

Short title and commencement.

1. (*1*) This Act may be called the Lahore Tramways Act, 1886; and

(*2*) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"committee" means the committee established for the municipality of Lahore under the Punjab Municipal Act, 1884:

XIII of 1884.

"tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway: and

"street" means any way, street, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and along or across which any tramway authorised by this Act is or is intended to be laid, and includes the surface-soil and sub-soil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

Powers of Grantees generally.

Powers to construct, maintain and use tramways.

3. Subject to the provisions of this Act, and to the terms and conditions of the said agreement so far as the same are not inconsistent with this Act or are not provided for thereby, the grantees may, within the local area included on the seventh day of February, 1885, within the limits of the municipality of Lahore, construct, maintain and use any of the tramways for the construction, maintenance and use of which provision is made in the said agreement:

Provided that any such tramway shall not be opened for public traffic until it has been inspected and certified to be fit therefor by an engineer appointed in this behalf by the Local Government.

Construction and Maintenance of Tramways and of Streets on which they are laid.

Power to grantees to break up

4. Subject to the terms and conditions of the said agreement, the grantees may, from time to time, for the purpose of constructing, maintaining or

streets and lay rails, &c.

renewing any tramway under this Act, open or break up any street, and therein or thereon lay sleepers and rails, and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on any such street all other acts which may, from time to time, be necessary for constructing, maintaining or renewing the tramway:

Provided that they shall not, without the consent of the committee, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length; and in the case of any street exceeding a quarter of a mile in length they shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the street, and shall not open or break up at any such place a greater length than one hundred yards.

Grantees to keep tramways and adjoining part of street in repair.

5. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the committee from time to time directs, all tramways constructed by them under this Act, and so much of any street as lies between the rails of any such tramway, and, in the case of double lines or turnouts or sidings, the portion of the street between the tramways, and in every case so much of the street as extends eighteen inches beyond the rails of and on each side of any such tramway.

Obligations of grantees when they have broken up street.

6. When the grantees have, for the purposes of section 4 or section 5, opened or broken up any portion of a street, they shall be under the following further obligations, namely:—

(*a*) they shall, with all convenient speed, and in all cases within six weeks at the most, unless the committee otherwise consents in writing, complete the work for which the street has been opened or broken up, fill in the ground and make good the surface, and, to the satisfaction of the committee, restore the street to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby;

(*b*) they shall, in the meantime, cause the place where the street is opened or broken up to be fenced and watched, and to be properly lighted from sunset to sunrise; and

(*c*) they shall be answerable for all injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of the opening or breaking up of the street.

Reservation of power of Committee and Government officers over streets.

7. (*1*) Nothing in this Act or in the said agreement shall prevent the committee or any Government officers from opening, breaking up, widening, altering, diverting or improving any street traversed by a tramway for the purposes for which they might otherwise under the law for the time being in force lawfully open, break up, widen, alter, divert or improve such street:

Provided that—

(*a*) they shall cause as little detriment or inconvenience to the grantees as circumstances admit; and

(*b*) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees not less than eighteen hours' previous notice of their intention to commence the work, specifying the time at which they will commence it.

(*2*) The committee or officers aforesaid or the Secretary of State for India in Council shall not be liable to pay to the grantees any compensation for injury done to the tramway by the execution of any work referred to in sub-section (*1*), or for loss of traffic occasioned by the reasonable use of any power lawfully exercised in connection with the same.

Rights over Tramways and Streets on which they are laid.

Grantees' exclusive right over tramways.

8. The grantees shall, subject to the provisions of this Act and to the terms and conditions of the said agreement, have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail:

Provided that nothing in this Act or in the said agreement shall affect the right of the public to pass along or across any part of any street along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail.

Grantees to have right of user only.

9. Notwithstanding anything in this Act or in the said agreement, the grantees shall not acquire any right other than that of user over any street along or across which they lay any tramway.

Power of committee and Government officers to regulate traffic on streets.

10. Nothing in this Act or in the said agreement shall affect any powers possessed by the committee or by any Government officers to regulate the passage of any traffic along or across any street along or across which any tramway is laid down, and the committee or officers aforesaid may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

Traffic on Tramways.

Rates of fares and charges.

11. The grantees may, from time to time, by a notice published in such languages and in such manner as the Local Government may prescribe, fix the rates of fares and charges for carrying passengers and goods in their carriages:

Provided that the rates of passenger fares shall not exceed one anna per mile for each passenger in the lower class, and two annas per mile for each passenger in the higher or first class.

Mode of payment of fares and charges.

12. The fares and charges by this Act authorised shall be paid to such persons, at such places upon or near to the tramways, and in such manner and under such regulations as the grantees may, by a notice published as aforesaid, from time to time prescribe.

Carriage of dangerous or offensive goods.

13. (*1*) No person shall be entitled to carry or to require to be carried on any tramway constructed under this Act any goods of a dangerous or offensive nature.

(*2*) Every person taking such goods with him on any such tramway shall, before entering the carriage, give notice of their nature to the servant of the grantees in charge of the carriage.

(*3*) Every person sending such goods by any such tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the book-keeper or other servant of the grantees with whom they are left at the time of such sending.

(*4*) Any servant of the grantees may refuse to carry upon any such tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

Offences and Penalties.

Penalty for failure of grantees to comply with certain provisions of Act and agreement.

14. If the grantees—

(*a*) construct or maintain any tramway, or run any carriage thereon, otherwise than in accordance with the said agreement and with this Act and the rules made under this Act;

(*b*) open any tramway for traffic before it has been inspected and certified in manner required by section 3;

(*c*) open or break up any street otherwise than as permitted by this Act, or having opened or broken up a street fail to discharge any of the obligations imposed on them by section 6, clauses (*a*) and (*b*), or

(*d*) fail to fulfil the requirements of section 5;

each of them shall (without prejudice to the enforcement of specific performance of the provisions of this Act or of the said agreement or to any other remedy against them), on complaint of the committee or of any person injuriously affected thereby, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first day during which the offence continues to be committed.

Penalty for obstructing grantees in the exercise of their powers.

15. Any person who, without lawful excuse (the proof whereof shall lie on him), wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in constructing, maintaining or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, shall be punished with fine which may extend to fifty rupees.

Penalty for interfering with tramway.

16. Any person who, without lawful excuse (the proof whereof shall lie on him), wilfully does any of the following things, namely:—

(*a*) interferes with, removes or alters any part of a tramway constructed under this Act, or of the works connected therewith;

(*b*) places or throws upon or across any such tramway any wood, stone, refuse or other thing;

(*c*) does anything in such a manner as to obstruct any carriage using any such tramway; or

XLV of 1860. (*d*) abets, within the meaning of the Indian Penal Code, the doing of anything mentioned in clause (*a*), clause (*b*) or clause (*c*);

shall be punished with fine which may extend to one hundred rupees.

Penalty for taking dangerous goods without giving notice.

17. Any person taking or sending by any tramway any goods of a dangerous or offensive nature without giving the notice required by section 13 shall be punished with fine which may extend to fifty rupees.

Penalty for avoiding payment of proper fare.

18. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional fare for the additional distance or attempts to avoid payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit the carriage, he shall be punished with fine which may extend to ten rupees.

Power of servant of grantees to arrest persons avoiding payment of fare.

19. (*1*) When a person commits an offence under section 18 and refuses, on demand of a servant of the grantees, to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call in for his assistance.

(*2*) When the person is taken to the police-station, he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

Powers to make Rules.

Powers to make rules.

20. (*1*) The Local Government may make rules consistent with this Act for regulating the use of steam-power or any other mechanical power on any of the tramways, and for the inspection of the engines worked on or in connection with the tramways for the purpose of producing that power.

(*2*) The Committee at a special meeting may, with the sanction of the Local Government, from time to time make such rules consistent with this Act as to the rate of speed, number of passengers and mode of use of the tramways, and as to the licensing and control of drivers, conductors and other persons having charge of the carriages of the grantees, as the convenience and safety of the public may, in the opinion of the committee, require.

(*3*) The grantees may, with the like sanction, from time to time, make rules consistent with this Act for preventing the commission of any nuisance

in or upon any carriage, or in or against any premises belonging to them, and for regulating the travelling in any carriage belonging to them.

(*4*) The authority making any rule under this section may prescribe as a punishment for the breach of it, a fine which may extend—

(*a*) if the authority making the rule is the Local Government, to two hundred rupees; and

(*b*) if that authority is the committee or the grantees, to twenty rupees.

(*5*) All rules made under this section shall be published in the local official Gazette.

Supplemental Provisions.

Commencement of agreement.

21. The said agreement shall, subject to the provisions and limitations in this Act contained, be deemed, for all the purposes thereof, to have been confirmed and recognised by the Government of the Punjab on the date of the passing of this Act.

Construction of clauses 17 and 24 of agreement.

22. For the purposes of clauses 17 and 24 of the said agreement, the want of sufficient funds shall not be deemed to be a circumstance beyond the control of the grantees.

Exemption from certain municipal taxation.

23. The plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the grantees shall, for a period of five years from the passing of this Act, be exempt from all municipal taxation except such lighting-rates and water-tax as may, from time to time, be payable in respect of the yards, workshops, engine-sheds and depôts.

Transfer of control on exclusion of local area from municipality.

24. If a local area in which a tramway has been constructed under this Act is at any time excluded from the municipality of Lahore, all the authority of the committee under the said agreement and this Act and the rules made under this Act shall, in respect of that local area, devolve on the Local Government.

Provisions as to other Acts.

25. Nothing in this Act or in the said agreement shall exempt the grantees or any tramway constructed by them under this Act from the provisions of the Indian Railway Act, 1879, section 54, or of any general enactment relating to tramways now in force or which may hereafter be passed.[a] IV of 1879.

Saving of prosecutions under other laws.

26. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it:

Provided that a person shall not be punished twice for the same offence.

THE SCHEDULE.

ARTICLES OF AGREEMENT made this seventh day of February, 1885, between

---

[a] *e. g.*, the Indian Tramways Act, XI of 1886.

the MUNICIPAL COMMITTEE OF LAHORE, PUNJAB, hereinafter called the Lahore Municipality, of the one part, and D. P. MASSON, JOHN ROBSON and ARTHUR MILFORD KER OF LAHORE, hereinafter called the grantees, of the other part.

WHEREAS the said Lahore Municipality, subject to the confirmation of the Government of the Punjab, and to the recognition of this agreement by the said Government of the Punjab, have agreed to grant to the said grantees the right to construct, maintain and use a tramway or tramways in Lahore upon the terms and conditions hereinafter contained.

2. NOW THESE PRESENTS witness that, in consideration of the covenants hereinafter contained and on the part of the said Lahore Municipality to be performed, the said grantees for themselves, their heirs, executors and assigns do covenant with the said Lahore Municipality, so far as the covenants and agreements hereinafter contained are to be performed by the said grantees and their heirs, executors, administrators and assigns, and the said Municipality for and in consideration of the covenants and agreements hereinafter contained and on the part of the said grantees and their heirs, executors, administrators and assigns to be performed, do hereby covenant with the said grantees and their heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said Lahore Municipality, their successors and assigns, in manner following, that is to say :—

The said Lahore Municipality grant to the said grantees and their heirs, executors, administrators and assigns, all which persons are hereinafter included in the words "the said grantees," the right to construct, maintain and use a tramway or tramways with all necessary sidings, turnouts, connections and lines of whatever nature which may be required to connect the said tramway with the depôts of the said grantees (but in the case of sidings and turnouts only in such places as the said corporation may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Municipality :—

Clause 1.—(*1st*) A line commencing at the junction of Nicholson and Mayo Roads near the Sindh, Punjab and Delhi Railway workshops, and continued along the road in front of the Railway Station through the Landa Bázár to the Delhi Gate, thence by the circular road on the south side of the City to the end of the Anarkali Bázár near the Lohari Gate.

(*2nd*) A line, being a continuation of the above, through the Anarkali Bázár past the Museum to the junction of the Church Road near Kapurthala House.

(*3rd*) A line in continuation leading to Mozang.

(*4th*) A line commencing at the junction of Mayo and Nicholson Roads continued along the Mayo Road through Shalu-ki-Garhi to Meean Meer Bázár.

Lines 1 and 2 are delineated on the map or plan hereunto annexed and signed by the parties hereto. The lines shall be single except at crossing stations, where they shall be double.

Clause 2.—The said grantees shall further (subject to clauses 3 and 4) have the exclusive right of laying, constructing, maintaining and using a tramway or tramways within the limits of the Lahore Municipality on the terms contained in these presents: provided always that if the said grantees shall at any time or times, not being a period less than three months after the construction of the lines 1 and 2 enumerated in clause 1, refuse or neglect for three months to accept any proposal by the said Lahore Municipality for the construction, maintenance and use of any tramway or tramways other than those mentioned in clause 1, which the said Lahore Municipality may consider necessary or desirable, it shall be lawful for the said Lahore Municipality to employ any other person or company for the purposes aforesaid or any of them, and to make such arrangements as they may think proper independently of the said grantees.

Clause 3.—The said grantees shall construct in such manner as to be available for use at least tramways 1 and 2 within two years from the date of obtaining the sanction and approval of the Government of the Punjab, and they shall, before the expiration of the third year, give notice in writing to the said Lahore Municipality of the lines they intend to construct during the next succeeding two years; and failing the observance by the said grantees of the terms of this clause, it shall be lawful for the said Lahore Municipality to withdraw and cancel the concessions and rights granted by these presents to the said grantees as regards the lines remaining to be constructed.

Clause 4.—If the grantees shall, at the expiration of five years from the date of commencement of this contract, have left any one or more lines hereinbefore in clause 1 specified unconstructed, and if the said Lahore Municipality shall not have exercised the rights conferred on them by clause 3, the said Lahore Municipality may call upon the said grantees to construct the line or lines, and if the said grantees do not construct the line or lines within twelve calendar months after receiving such formal notice, then their power granted in this concession shall, so far as relates to that line or lines, cease, and the said Lahore Municipality may make arrangements with other persons for the construction of the same.

Clause 5.—Any tramway or tramways to be constructed under this agreement shall be constructed on the metre gauge of 3 feet 3⅜ inches, or on such other gauge not exceeding 4 feet 8½ inches as may be mutually agreed upon, and specially the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road; and before the work of construction is begun the drawings and specifications showing the proposed construction of each tramway shall be submitted to the said Municipality and be approved by them, and the cars and carriages intended to run on the said tramways shall also be such as shall have been ap-

proved of by the Municipality. The rail to be used is the ordinary grooved rail of steel weighing 34 pounds per yard.

Clause 6.—If the said Municipality shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorised is laid or authorised to be laid, the grantees shall alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road so altered: provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

Clause 7.—The cars and carriages of the said grantees on the tracks of the said tramways shall be worked with such power, animal or mechanical, as the said grantees may think suitable, provided that no steam carriages may be used without the special consent of the Municipality (Commissioners in special general meeting) and the sanction of the Punjab Government, and provided also that the said Municipality (Commissioners in special general meeting) shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said tracks as the convenience and safety of the public using the street may require.

Clause 8.—The said grantees shall have power from time to time to fix the rate of fares for carrying persons and goods in the cars or carriages to be run on the said tramway or tramways: provided that the rates of fares shall for any distance not exceed the rate of one anna per mile for the lower class and two annas per mile for the higher or first class for each passenger.

Clause 9.—The said grantees may, for the purpose of constructing and maintaining such tramways under such superintendence as is hereinafter specified, open and break up the soil and metalled way of the several streets, roads and bridges, and thereon lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets, roads and bridges, and the said grantees may, in and on such streets, roads and bridges, do all other acts which they shall from time to time deem necessary for constructing and maintaining street tramways, doing as little damage as may be in the execution of the powers hereby granted, and shall make good all damage done to drains, sewers, water and gas pipes, or to the wires or other materials or things used for any other system of lighting, and whether belonging to the said Municipality or to private individuals, and shall make compensation for any other damage done in the execution of such powers.

Clause 10.—Before the said grantees proceed to open or break up any street, road or bridge, they shall obtain the approval in writing of the said Committee to the tracks or lines of the said tramway being laid down on the said streets, roads or bridges, and the said grantees, before opening or breaking up any street, road or bridge, shall give to the said Committee or their Executive Engineer, or other municipal officer duly appointed for that purpose,

notice in writing of their intention to open or break up the same not less than three clear days before beginning such work; except in such cases of emergency arising from defects in any of the rails or other works, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

Clause 11.—No street, road or bridge shall, except in cases of emergency as aforesaid, be opened or broken up, except under the superintendence of the said Committee or of their Executive Engineer, or of some other municipal officer duly appointed for that purpose, and according to such plans as shall be approved of by him or them: provided always that if the said Committee or their Engineer or other such officer as aforesaid fail to attend at the time fixed for the opening of any such street, road or bridge after having had such notice of the said grantees' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said grantees may perform the work specified in such notice without such superintendence as aforesaid.

Clause 12.—When the said grantees open or break up the roadway or pavement of any street, road or bridge, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and make good the roadway or pavement so opened or broken up as aforesaid, and carry away the rubbish occasioned thereby, and deposit the same for the use of the said Committee at such place as the Executive Engineer of the said Municipality shall direct, and shall at all times, whilst any such roadway or pavement shall be so opened or broken up, cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up every night during which the same shall continue open or broken up.

Clause 13.—If the said grantees open or break up any street, road or bridge without giving such notice as hereinbefore mentioned, or in a manner different from that which shall have been approved of or determined as aforesaid, except in the cases in which the said grantees are hereby authorised to perform such work without any superintendence or notice, or if the said grantees shall make any unnecessary delay in completing any such work or in filling in the ground or reinstating and making good, so far as is consistent with the existence of the said tramway, the roadway or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such roadway or pavement has been broken up to be guarded and lighted, they shall forfeit to the said Committee a sum not exceeding fifty (50) rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty (50) rupees for each day during which any such delay or neglect as aforesaid shall continue after they shall have received notice thereof.

Clause 14.—The said grantees shall maintain and keep in repair such portion of the streets, roads and bridges as shall be occupied by their tracks or

lines, including therein, not only the space between their tracks or lines, but a space eighteen inches on either side thereof, and in consideration of the maintenance of such streets, roads and bridges as aforesaid, and of the yearly rent hereinafter mentioned to be paid by the grantees, the plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the said grantees shall be exempt from municipal taxation for a period of five years, except lighting and water rates for such yards, workshops, engine-sheds and depôts.

Clause 15.—The said grantees shall be liable for any loss, damage or injuries that any person or persons may sustain by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said grantees, or by reason of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the tramways or any portion thereof; the same shall be made good by the said grantees, and, in the event of any suit being instituted against the said Committee in respect of any of the matters hereinbefore mentioned, the said grantees shall, within fourteen days from the receipt of a notice thereof from the said Committee, settle the same; but if the said grantees choose to defend such suit, they shall be at liberty to do so, upon their undertaking to indemnify the said Committee against all losses, damages and expenses in respect thereof: provided always that, if the said grantees fail to settle such suit or to indemnify the said Committee as is hereinbefore provided, it shall be lawful for the said Committee to settle the same without any consent or concurrence on the part of the said grantees, and the sums which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantees.

Clause 16.—Nothing in this agreement shall be construed to prevent the said Committee from taking up any of the public streets or roads traversed by the said tramway for the purposes for which the said Committee may lawfully take up the same, and the said grantees shall have no right to claim cost from the said Committee for obstructing the tramway or causing delay in the traffic so long as the delay shall not be unreasonable for the work to be performed.

Clause 17.—If at any time after the opening of any tramway for traffic the said grantees shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the said grantees), it shall be lawful for the said Committee, without any previous notice to the said grantees, to remove the tramway or part of the tramway so discontinued, and the said grantees shall pay to the said Committee the cost of such removal and of the making good of the street, road or bridge, and the certificate of the said Committee or of their engineer as to such costs shall be conclusive.

Clause 18.—The provisions of this agreement shall remain and be in force for a term not less than twenty-one (21) years from the date thereof. The said Committee shall have the right of purchasing the said tramways, with the

plant, stores, rolling-stock, sheds, depôts and yards, and everything connected therewith, after the expiration of the said twenty-one (21) years, upon declaring its intention so to do within six months after the expiration of the said twenty-one (21) years; the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value at the termination of this agreement, exclusive of any compensation for goodwill, premium on compulsory sale or other consideration whatever, of the tramways and of the work and materials connected therewith, and of the lands and buildings and all the other property of the grantees, such value to be decided by mutual agreement or by arbitration as hereinafter provided.

Clause 19.—The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees by any route or routes to be hereafter sanctioned by the said Committee, and to the works connected with or incidental to such tramways, it being agreed that, in the event of the Municipality failing to declare its intention as above provided to purchase the property of the said grantees, the terms of this contract shall continue in force during the period of six months from the date of the determination of these presents and for a further period of six months, and, if the said Committee shall not within that time exercise the option of purchase hereby given, the said Committee and the said grantees shall enter into a fresh agreement.

Clause 20.—The said grantees will, if required by the Municipality, before opening and breaking up the soil and pavement of any street or bridge, deposit in an approved Bank in Lahore, in the name of the said Municipality, the sum of Rs. 1,000 or in their option Promissory Notes of the Government of India or Municipal Bonds of the nominal value of Rs. 1,000, and the same will remain so deposited until the completion by the said grantees of the lines of tramway herein sanctioned for immediate construction. But all interest accruing on the said sum or the said notes shall be credited to the said grantees, and, subject as next hereinafter mentioned, be paid to them as the same shall accrue due: provided, nevertheless, that the said Municipality shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes, or out of the proceeds of sale of the said notes, all moneys to which they may be entitled under any clause or clauses of these presents.

Clause 21.—In consideration of the concession hereby granted, the said grantees will pay to the said Lahore Municipality rents at the rates and under the conditions hereinafter specified; that is to say, for the first two years after the opening of the tramway or tramways no rent will be charged, after the expiration of the first two years, and during the next ensuing year, the rental shall be one-tenth of the annual average profits as shown by the company's books during the preceding two years, this rental to be subject to revision at the end of every two years, and the maximum charge or rental made by the said Municipality shall under no circumstance exceed one-tenth of the net profit divided by the company in every period of two years immediately preceding

each adjustment of the charge. The books and accounts shall at all times be open to the inspection of the Municipal Committee, and should any dispute arise as to the exact charge to be made by the said Municipality, then such matter or matters in dispute shall be referred to arbitrators as detailed in clause 25 of this agreement. If the said rent or any part thereof shall not be paid on due date, the said grantees shall be liable to pay interest thereon at the rate of 8 per cent. per annum from the due date until payment.

Clause 22.—From and after the commencement of the 15th year of this contract to the end of the 21st, the said grantees shall not be at liberty to enter upon any fresh arrangements or expenditure which would increase their capital account in connection with this contract without first notifying their intention to the said Municipality and obtaining their approval thereof and sanction thereto in writing.

Clause 23.—The sleepers, rails, materials and implements and other erections placed and erected by the said grantees on the streets, bridges or roads under the powers hereby granted shall be and remain the property of the said grantees, and the said grantees shall have the exclusive use of their tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

Clause 24.—Unless the said grantees shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these articles of agreement, the said Committee shall be at liberty to cease and determine this contract and to enter into arrangements with any other person or persons for the construction of tramways; it being agreed, however, that these conditions of contract are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said twelve months shall date from the day on which notice of such sanction is given to the said grantees: provided also that any delay in commencing the work beyond twelve months shall not have been due to any cause beyond the control of the said grantees.

Clause 25.—If any doubt, difference or dispute shall arise between the said grantees and the said Committee touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the said grantees and the other by the said Committee within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and, in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone, and the decision of such arbitrators,

umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

Clause 26.—The said grantees are to be at liberty to form a Company or Limited Liability Company for the purpose of constructing, maintaining and working the tramways authorised by or hereafter to be authorised under the terms of this agreement. The words "the said grantees" used in this agreement shall include such Company or Limited Liability Company so formed as aforesaid.

Clause 27.—The words "the said Committee" used in this agreement shall include the present Committee and their successors, and also persons empowered by the said Committee or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Committee are hereinbefore authorised or empowered to do or exercise.

ACT No. III OF 1886.

Received the Governor General's assent on the 29th January, 1886.

An Act to amend the Northern India Ferries Act, 1878.

WHEREAS it is expedient to amend the Northern India Ferries Act, 1878; It is hereby enacted as follows:— XVII of 1878.

Substitution of new section for section 8, and amendment of sections 12 and 15.

1. (*1*) For section 8 the following shall be substituted, namely:—

(*Vide supra, p. 118.*)

(*2*) For section 12, clause (*b*), the following shall be substituted, namely:—

(*Vide supra, p. 119.*)

(*3*) In the third paragraph of section 15, for the word "auction" the word "lease" shall be substituted.

Amendment of section 13, and substitution of new section for section 26.

2. (*1*) For the first paragraph of section 13 the following shall be substituted, namely:—

(*Vide supra, p. 120.*)

(*3*) For section 26 the following shall be substituted, namely:—

(*Vide supra, p. 122.*)

ACT No. II OF 1887.

Received the Governor General's assent on the 14th January, 1887.

An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882; VIII of 1878. XXII of 1881. XI of 1882.

It is hereby enacted as follows:—

Sea Customs Act, 1878.

1. 2. 3. 4. [*Omitted, as referring to a general Act.*]

Excise Act, 1881.

XII of 1881.

5. For section 23 of the Excise Act, 1881, the following shall be substituted, namely:— New section substituted for section 23.

(*Vide supra, p. 145.*)

6. (*1*) In clause (*c*) of section 36 of the same Act the words "or fermented liquor" shall be inserted after the words "any spirit." Amendment of section 36

(*2*) In the last paragraph of the same section of the same Act the words "or fermented liquor" shall be inserted between the words "the spirit" and the words "together with."

Indian Tariff Act, 1882.

7. 8. 9. [*Omitted, as referring to a general Act.*]

THE PUNJAB TENANCY ACT, 1887.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title, extent and commencement.
2. Power to make rules in anticipation of commencement.
3. Repeal.
4. Definitions.

CHAPTER II.

RIGHT OF OCCUPANCY.

5. Tenants having right of occupancy.

SECTIONS.

6. Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868.
7. Right of occupancy in land taken in exchange.
8. Establishment of right of occupancy on grounds other than those expressly stated in Act.
9. Right of occupancy not to be acquired by mere lapse of time.
10. Right of occupancy no to be acquired by joint owner in land held in joint ownership.
11. Continuance of existing occupancy-rights.

CHAPTER III.

RENT.

Rents generally.

12. Respective rights of landlord and tenant to produce.
13. Commutation and alteration of rent.
14. Payments for land occupied without consent of landlord.
15. Collection of rents of undivided property.

Produce-rents.

16. Presumption with respect to produce removed before division or appraisement.
17. Appointment of referee for division or appraisement.
18. Appointment of assessors and procedure of referee.
19. Procedure after division or appraisement.
20. Enhancement of produce-rents of occupancy-tenants.
21. Reduction of rents referred to in the last foregoing section.

Cash-rents paid by Tenants having Right of Occupancy.

22. Enhancement of cash-rents of occupancy-tenants.
23. Reduction of rents referred to in the last foregoing section.

General Provisions relating to Suits for Enhancement or Reduction of Rent.

24. Enhancement and reduction of rent by suit.
25. Discretion as to extent of enhancement or reduction.
26. Time for enhancement or reduction to take effect.

Adjustment of Rents expressed in terms of the Land-revenue.

27. Adjustment of rents expressed in terms of the land-revenue.

Alteration of Rent on Alteration of Area

28. Alteration of rent on alteration of area.

Remission.

SECTIONS.

29. Remission of rent by Courts decreeing arrears.
30. Remission and suspension of rent consequent on like treatment of land-revenue.

Deposits.

31. Power to deposit rent in certain cases with Revenue-officer.
32. Effect of depositing rent.

Recovery of Rent from attached Produce.

33. Recovery of rent from attached produce.

Leases for Period exceeding Term of Assessment of Land-revenue.

34. Treatment of leases for period exceeding or equal to term of assessment of land-revenue.

CHAPTER IV.

RELINQUISHMENT, ABANDONMENT AND EJECTMENT.

Relinquishment.

35. Relinquishment by tenant for a fixed term.
36. Relinquishment by any other tenant.
37. Relinquishment of part only of a tenancy.

Abandonment.

38. Abandonment of tenancy by occupancy-tenant.

Ejectment.

LIABILITY TO EJECTMENT.

39. Grounds of ejectment of occupancy-tenant.
40. Grounds of ejectment of tenant for a fixed term.
41. Ejectment of tenant from year to year.

PROCEDURE ON EJECTMENT.

42. Restriction on ejectment.
43. Application to Revenue-officer for ejectment.
44. Ejectment for failure to satisfy decree for arrear of rent.
45. Ejectment of tenant from year to year by notice.
46. Power to make rules.

GENERAL PROVISIONS RESPECTING EJECTMENT.

SECTIONS.

47. Time for ejectment.
48. Relief against forfeiture.
49. Rights of ejected tenants in respect of crops and land prepared for sowing.

RELIEF FOR WRONGFUL DISPOSSESSION.

50. Relief for wrongful dispossession or ejectment.
51. Bar of relief by suit under section 9, Act I of 1877.

Power to vary Dates prescribed by this Chapter.

52. Power for Local Government to fix dates for certain purposes.

CHAPTER V.

ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY.

Alienation.

53. Private transfer of right of occupancy under section 5 by tenant.
54. Procedure on foreclosure of mortgage of right of occupancy under section 5.
55. Sale of right of occupancy under section 5 in execution of decree.
56. Transfer of right of occupancy under any other section than section 5.
57. Rights and liabilities of transferee of right of occupancy.
58. Subletting.

Succession.

59. Succession to right of occupancy.

Irregular Transfers.

60. Irregular transfer of right of occupancy.

CHAPTER VI.

IMPROVEMENTS AND COMPENSATION.

Improvements by Landlords.

61. Improvements by landlords on tenancies of occupancy-tenants.
62. Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy-tenant.

Improvements by Tenants.

SECTIONS.

63. Title of occupancy-tenant to make improvements.
64. Title of tenants not having right of occupancy to make improvements.
65. Improvements made before commencement of this Act.
66. Improvements begun in anticipation of ejectment.
67. Tender of lease for twenty years to tenant to be a bar to right to compensation.
68. Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.

Compensation for Disturbance of Clearing Tenants.

69. Compensation for disturbance of clearing tenants.

Procedure in determining Compensation.

70. Determination of compensation by Revenue Courts.
71. Determination of compensation by Revenue-officers.
72. Matters to be regarded in assessment of compensation for improvements.
73. Form of compensation.

Relief in case of Ejectment before Determination of Compensation.

74. Relief in case of ejectment before determination of compensation.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction.

75. Revenue-officers.
76. Applications and proceedings cognizable by Revenue-officers.
77. Revenue Courts and suits cognizable by them.

Administrative Control.

78. Superintendence and control of Revenue-officers and Revenue Courts.
79. Power to distribute business and withdraw and transfer cases.

Appeal, Review and Revision.

80. Appeals.
81. Limitation for appeals.
82. Review by Revenue-officers.

SECTIONS.

83. Computation of periods limited for appeals and applications for review.
84. Power to call for, examine and revise proceedings of Revenue-officers and Revenue Courts.
85. Procedure of Revenue-officers.
86. Persons by whom appearances may be made before Revenue-officers as such and not as Revenue Courts.
87. Costs.
88. Procedure of Revenue Courts.
89. Power of Revenue-officer or Revenue Court to summon persons.
90. Mode of service of summons.
91. Mode of service of notice, order or proclamation or copy thereof.
92. Additional mode of publishing proclamation.
93. Joinder of tenants as parties to proceedings relating to rent.
94. Exception of suits under this Act from operation of certain enactments.
95. Payment into Court of money admitted to be due to a third person.
96. Execution of decrees for arrears of rent.
97. Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.
98. Power to refer party to Civil Court.
99. Power to refer to Chief Court questions as to jurisdiction.
100. Power of Chief Court to validate proceedings had under mistake as to jurisdiction.

Miscellaneous.

101. Place of sitting.
102. Holidays.
103. Discharge of duties of Collector dying or being disabled.
104. Retention of powers by Revenue-officers on transfer.
105. Conferment of powers of Revenue-officer or Revenue Court.
106. Power for Financial Commissioner to make rules.
107. Rules to be made after previous publication.
108. Powers exerciseable by Financial Commissioner from time to time.

CHAPTER VIII.

EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS AND AGREEMENTS.

109. Nullity of certain entries in records-of-rights.
110. Nullity of certain agreements contrary to the Act.
111. Saving of other agreements when in writing.
112. Effect of certain entries made in records-of-rights before November, 1871.

THE SCHEDULE.—ENACTMENTS REPEALED.

ACT No. XVI OF 1887.

Received the Governor General's assent on the 23rd September, 1887.

An Act to amend the Law relating to the Tenancy of Land in the Punjab.

WHEREAS it is expedient to amend the law relating to the tenancy of land in the Punjab; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Tenancy Act, 1887.[a]

(*2*) It extends to the whole of the territories (including the pargána of Spiti) for the time being administered by the Lieutenant-Governor of the Punjab, except the Hazára district[a]; and

[b](*3*) It shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, may by notification appoint in this behalf.

Power to make rules in anticipation of commencement.

2. Any power conferred by this Act on the Financial Commissioner to make rules, and on the Local Government to sanction them, may be exercised at any time after the passing of this Act, but a rule so made shall not take effect till the commencement of this Act.

Repeal.

3. The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land;

(*2*) "pay," with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render," with their grammatical variations and cognate expressions:

(*3*) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him:

(*4*) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable:

(*5*) "tenant" means a person who holds land under another person, and

---

[a] The Act, except so much of s. 3 as relates to the Punjab Tenancy Act, 1868, has also been extended to the Hazára District with certain modifications, which are noted *infra*, by Reg. XIII of 1887, s. 3, *infra*, p. 406.

[b] The Act came into force on the 1st November, 1887, see Notification No. 726, *Punjab Gazette*, 3rd November, 1887, Part I, p. 578.

is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include—

(*a*) an inferior landowner, or

(*b*) a mortgagee of the rights of a landowner, or

(*c*) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land-revenue Act, 1887, for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, or — XVII of 1887.

(*d*) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it:

(*6*) "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land:

(*7*) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord respectively:

(*8*) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(*9*) "estate," "landowner" and "holding" have the meanings respectively assigned to those words in the Punjab Land-revenue Act, 1887:

(*10*) "land-revenue" means land-revenue assessed under any law for the time being in force or assessable under the Punjab Land-revenue Act, 1887, and includes—

(*a*) any rate imposed in respect of the increased value of land due to irrigation, and

(*b*) any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment:

(*11*) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

(*a*) the local rate, if any, payable under the Punjab Local Rates Act, 1878[a]; — V of 1878.

(*b*) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from landowners for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act; — XX of 1883.

(*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873; — VIII of 1873.

(*d*) the zaildári and village-officers' cesses; and

(*e*) sums payable on account of village-expenses:

(*12*) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of pri-

---

[a] Act V of 1878 has not been reprinted—see Preface, para. 8.

vate property or for personal service nor imposed by or under any enactment for the time being in force :

(*13*) "village-officer" means a chief-headman, headman or patwári :

(*14*) "Revenue-officer" or "Revenue Court," in any provision of this Act, means a Revenue-officer or Revenue Court having authority under this Act to discharge the functions of a Revenue-officer or Revenue Court, as the case may be, under that provision :

(*15*) "jágírdár" includes any person, other than a village-servant, to whom the land-revenue of any land has been assigned in whole or in part by the Government or by an officer of the Government :

(*16*) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtár :

XVIII of 1879.

(*17*) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area ;

(*18*) "notification" means a notification published by authority of the Local Government in the official Gazette : and

(*19*) "improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it;

Explanation I.—It includes, among other things,

(*a*) the construction of wells and other works for the storage or supply of water for agricultural purposes ;

(*b*) the construction of works for drainage and for protection against floods ;

(*c*) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature ;

(*d*) the erection of buildings required for the more convenient or profitable cultivation of a tenancy ; and

(*e*) the renewal or re-construction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value ;

But it does not include such clearances, embankments, levellings, enclosures, temporary wells and water-channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry ;

Explanation II.—A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement ;

Explanation III.—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property.

CHAPTER II.

RIGHT OF OCCUPANCY.

Tenants having right of occupancy.

[a]5. (*1*) A tenant—

(*a*) who at the commencement of this Act has for more than two generations in the male line of descent through a grandfather or grand-uncle and for a period of not less than twenty years been occupying land paying no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, or

(*b*) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner, continuously occupied the land, or

(*c*) who, in a village or estate in which he settled along with, or was settled by, the founder thereof as a cultivator therein, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or

(*d*) who, being jágírdár of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or, having been such jágírdár, occupied

---

[a] In the Hazára District, the following is substituted for s. 5—see Reg. XIII of 1887, s. 3 (*1*), *infra*, p. 406:—

Tenants having right of occupancy.

5. (*1*) A tenant—

(*a*) who had before the tenth day of April, 1873, occupied land for more than two generations in the male line of descent through a grandfather or grand-uncle, and paid no rent in respect of the land beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, and has since that date continuously occupied the land and paid no rent in respect thereof beyond such amount as aforesaid, or

(*b*) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner, continuously occupied the land, or

(*c*) who, in a village or estate in which he settled along with, or was settled by, the founders thereof, occupied land on the tenth day of April, 1873, and has continuously occupied the land since that date, or

(*d*) who is or has been jágírdár of the estate or any part of the estate in which the land occupied by him is situate, and who,—

(i) being such jágírdár, has continuously occupied the land for not less than twenty years, or

(ii) having been such jágírdár, occupied the land while he was jágírdár and has continuously occupied it for not less than twenty years, or

(*e*) who occupied land before the summary settlement of 1847 and has continuously occupied it since that year, or

(*f*) who has continuously occupied land from a time within the currency of the first summary settlement and paid no rent in respect of the land beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon,

shall be deemed to have a right of occupancy in the land so occupied.

(*2*) The words in clause (*a*) of sub-section (*1*) denoting natural relations include relations by adoption.

(*3*) Occupancy which was interrupted during the rule of the Sikh Government but was restored before the completion of the second summary settlement and has since continued shall notwithstanding the interruption be deemed for the purposes of sub-section (*1*) to have been continuous.

(*4*) The word "land" in that sub-section does not include either land occupied by gardens or groves of fruit-bearing or other trees which were originally planted by the landlord or land held by a village-servant on condition of his rendering service in return therefor.

the land while he was jágírdár and has continuously occupied it for not less than twenty years,

has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (*c*), the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.

(*2*) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (*a*) of sub-section (*1*).

(*3*) The words in that clause denoting natural relationship denote also relationship by adoption, including therein the customary appointment of an heir, and relationship by the usage of a religious community.

Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868.

6. A tenant recorded in a record-of-rights sanctioned by the Local Government before the twenty-first day of October, 1868, as a tenant having a right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act.

Right of occupancy in land taken in exchange.

7. If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

Establishment of right of occupancy on grounds other than those expressly stated in Act.

8. Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

Right of occupancy not to be acquired by mere lapse of time.

9. No tenant shall acquire a right of occupancy by mere lapse of time.

Right of occupancy not to be acquired by joint owner in land held in joint ownership.

[a]**10.** In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

Continuance of existing

11. Notwithstanding anything in the foregoing sections of this Chapter, a

[a] In the Hazára District, the following is added to s. 10—see Reg. XIII of 1887, s. 3 (*2*), *infra*, p. 406:—

"A tribesman who has not been excluded by the rules of his tribe from being one of the owners of land owned by the tribe shall not acquire a right of occupancy under this Chapter in any part of such land."

occupancy-rights.

tenant who immediately before the commencement of this Act has a right of occupancy in any land under an enactment specified in any line of the first column of the following table shall, when this Act comes into force, be held to have, for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table :—

PUNJAB TENANCY ACT, 1868		THIS ACT		
FIRST COLUMN.		SECOND COLUMN.		
Section.	Clause	Section.	Sub-section.	Clause.
5	(1)	5	(1)	(a)
5	(2)	5	(1)	(b)
5	(3)	5	(1)	(c)
5	(4)	5	(1)	(d)
6	...	6	...	..
8	...	8	...	....

XXVIII of 1868.

* In the Hazára District the following table is substituted for this one—see Reg XIII of 1887, s. 3 (3), *infra* p 406:—

FIRST COLUMN		SECOND COLUMN.		
HAZARA TENANCY REGULATION III OF 1873		PUNJAB TENANCY ACT, 1887, AS APPLIED TO HAZARA BY THE HAZARA TENANCY REGULATION, 1887		
Section	Clause.	Section	Sub-section.	Clause.
5	(a)	5	(1)	(a)
5	(b)	5	(1)	(b)
5	(c)	5	(1)	(c)
5	(d)	5	(1)	(d)
5	(e)	5	(1)	(e)
5	(f)	5	(1)	(f)
6	...	6	...	...
8	...	8	...	...

CHAPTER III.

RENT.

Rents generally.

12. (*1*) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

Respective rights of landlord and tenant to produce.

(*2*) A tenant shall be entitled to tend, cut, and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(*3*) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(*4*) Where rent is taken by division of the produce—

(*a*) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided;

(*b*) the landlord shall be entitled to be present at, and take part in, the division of the produce; and

(*c*) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

13. (*1*) Where rent is taken by any of the following methods, namely :—

Commutation and alteration of rent.

(*a*) by division or appraisement of the produce,

(*b*) by rates fixed with reference to the nature of the crops grown,

(*c*) by a rate on a recognized measure of area,

(*d*) by a rent in gross on the tenancy, or

(*e*) partly by one of the methods specified in clauses (*a*), (*b*) and (*c*) of this sub-section and partly by another or others of them,

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(*2*) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (*a*), (*b*) and (*c*) of sub-section (*1*), or by the method specified in clause (*d*) of that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

14. Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

Payments for land occupied without consent of landlord.

15. When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

Collection of rents of undivided property.

Produce-rents.

16. Where rent is taken by division or appraisement of the produce, if the

Presumption with respect

to produce removed before division or appraisement.

tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

Appointment of referee for division or appraisement.

17. If either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a Revenue-officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

Appointment of assessors and procedure of referee.

18. (*1*) When a Revenue-officer appoints a referee under the last foregoing section, he may, in his discretion, give him instructions with respect to the association with himself of any other persons as assessors, the number, qualifications and selection of those assessors, and the procedure to be followed in making the division or appraisement.

(*2*) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue-officer under the last foregoing sub-section.

(*3*) Before making the division or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed *ex parte*.

(*4*) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

Procedure after division or appraisement.

19. (*1*) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(*2*) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(*3*) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(*4*) The costs may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

Enhancement of produce rents of occupancy-tenants.

20. Where the rent of a tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is a rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent:

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the rent payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates, or with reference to the rent in gross, as the case may be, paid by ten-

ants, having a similar right of occupancy, for irrigated or flooded land of a similar description and with similar advantages.

Reduction of rents referred to in the last foregoing section.

21. When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies ceases to be irrigated or flooded, the rent payable in respect of the land or part may be reduced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for unirrigated or unflooded land of a similar description and with similar advantages.

Cash-rents paid by Tenants having Right of Occupancy.

Enhancement of cash-rents of occupancy-tenants.

[a]22. (*1*) Where a tenant having a right of occupancy pays his rent entirely by a cash-rate on a recognized measure of area or by a cash-rent in gross on his tenancy, the rent may be enhanced on the ground that, after deduction therefrom of the land-revenue of, and the rates and cesses chargeable on, the tenancy, it is—

(*a*) if the tenant belongs to the class specified in clause (*a*) of sub-section (*1*) of section 5, less than two annas per rupee of the amount of the land-revenue;

(*b*) if he belongs to any of the classes specified in clauses (*b*), (*c*) and (*d*) of that sub-section, less than six annas per rupee of the amount of the land-revenue;

(*c*) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract, less than twelve annas per rupee of the amount of the land-revenue.

(*2*) In a case to which sub-section (*1*) applies, the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee of the amount of the land-revenue, as the case may be, in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon.

---

[a] In the Hazára District the following is substituted for s. 22—see Reg. XIII of 1887, s. 3 (*4*), *infra*, p. 406:—

Enhancement of cash-rents of occupancy-tenants.

22. (*1*) Where a tenant having a right of occupancy pays his rent entirely by a cash-rate on a recognized measure of area or by a cash-rent in gross on his tenancy, the rent may be enhanced on the ground that, after deduction therefrom of the land-revenue of, and the rates and cesses chargeable on, the tenancy it is,—

(*a*) if the tenant belongs to the class specified in clause (*a*) of sub-section (*1*) of section 5, less than two annas per rupee of the amount of the land-revenue;

(*b*) if he belongs to any of the classes specified in clauses (*b*), (*c*) and (*d*) of that sub-section, or if he belongs to the class specified in clause (*e*) of that sub-section and has within the meaning of this Act continuously occupied the tenancy from a time previous to the famine of 1783, less than six annas per rupee of the amount of the land-revenue;

(*c*) if he belongs to the class specified in clause (*e*) of that sub-section and has not within the meaning of this Act continuously occupied the tenancy from a time previous to the famine of 1783, or if he belongs to the class specified in clause (*f*) of that sub-section, or if his right of occupancy is established under section 8 and his rent is not regulated by contract, less than twelve annas per rupee of the amount of the land-revenue.

(*2*) In a case to which sub-section (*1*) applies, the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee of the amount of the land-revenue, as the case may be, in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon.

Reduction of rents referred to in the last foregoing section.

23. The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

General Provisions relating to Suits for Enhancement or Reduction of Rent.

Enhancement and reduction of rent by suit.

24. (*1*) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy.

(*2*) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868,[a] a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally re-assessed and the revenue payable in respect of that land has been increased. XXVIII of 1868.

(*3*) Subject to the provision of sub-section (*2*), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely:—

(*a*) if within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section,

(*b*) if within that period a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent,

unless the land or some part of the land comprised in his tenancy, not having been irrigated or flooded at the time of such commutation, enhancement or decree, has become irrigated or flooded.

Discretion as to extent of enhancement or reduction.

25. In enhancing or reducing the rent of any land under the foregoing provisions of this Chapter, the Court shall, within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less than the amount of the land-revenue of the land and the rates and cesses chargeable thereon.

Time for enhancement or reduction to take effect.

26. (*1*) Unless the Court decreeing an enhancement of rent otherwise directs, the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree.

(*2*) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

Adjustment of Rents expressed in terms of the Land-revenue.

Adjustment of rents expressed in terms of the land-revenue.

27. (*1*) Where the rent of a tenancy is the whole or a share of the land-revenue thereof, with or without an addition in money, kind or service, and the land-revenue of the holding in which the tenancy is situate is altered, a Revenue-officer having authority under section 56 of the Punjab Land-revenue XVII of 1887.

[a] In the Hazára District, for "Punjab Tenancy Act, 1868," in s. 24 (*2*), "Hazára Tenancy Regulation, 1873," is to be read—see Reg. XIII of 1887, s. 3 (*5*). Act XXVIII of 1868 has been repealed by this Act, see s. 3 and Sch., pp. 279 and 315.

Act, 1887, to determine the land-revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate shall determine also the amount of the land-revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

(*2*) Where an addition referred to in sub-section (*1*) is a percentage fixed with reference to the land-revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue-officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land-revenue or rates and cesses.

(*3*) The sum or sums determined under the foregoing sub-sections, together with any addition previously payable other than the additions referred to in sub-section (*2*), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(*4*) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Alteration of Rent on Alteration of Area.

Alteration of rent on alteration of area.

28. (*1*) Every tenant shall—

(*a*) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made; and

(*b*) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(*2*) In determining the area for which rent has been previously paid, the Court shall have regard to the following, among other matters, namely :—

(*a*) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy;

(*b*) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord; and

(*c*) the length of time during which there has been no dispute as to rent or area.

(*3*) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect.

(*4*) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Remission.

Remission of rent by Courts decreeing arrears.

29. Notwithstanding anything in the foregoing sections of this Chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may, with the previous sanction of the Collector, allow such remission from the rent payable by the tenant as may appear to it to be just.

Remission and suspension of rent consequent on like treatment of land-revenue.

30. (*1*) Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land.

(*2*) An order passed under sub-section (*1*) shall not be liable to be contested by suit in any Court.

(*3*) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended.

(*4*) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(*5*) If the landlord collects any rent of which the payment has been remitted, or before the expiration of the period of suspension collects any rent of which the payment has been suspended, the whole of the land-revenue remitted or suspended in his favour shall become immediately payable by him.

(*6*) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land-revenue has been released, compounded for or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land-revenue.

Deposits.

Power to deposit rent in certain cases with

31. In either of the following cases, namely:—

(*a*) when a landlord refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant,

(*b*) when a tenant is in doubt as to the person entitled to receive rent payable in money, Revenue-officer.

the tenant may apply to a Revenue-officer for leave to deposit the rent in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

32. (*1*) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due. Effect of depositing rent.

(*2*) The Revenue-officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(*3*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Recovery of Rent from attached Produce.

33. (*1*) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue-officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of— Recovery of rent from attached produce.

(*a*) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application, and

(*b*) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(*2*) The Revenue-officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(*3*) The finding of the Revenue-officer under sub-section (*2*) shall have the force of a decree in a suit between the landlord and the tenant.

Leases for Period exceeding Term of Assessment of Land-revenue.

34. (*1*) Where a lease has been granted, or an agreement has been entered into, by a landowner in respect of any land assessed to land-revenue, fixing for a period exceeding the term for which the land-revenue has been assessed the Treatment of leases for period exceeding or

equal to term of assessment of land-revenue.

rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable—

(*a*) at the option of the landowner if the land-revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sum as a Revenue Court, on the suit of the landowner, determines to be fair and equitable; and

where the relation of landlord and tenant exists between the grantor and grantee of the lease, or between the persons who entered into the agreement—

(*b*) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant, determines to be fair and equitable.

(*2*) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement or the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

CHAPTER IV.

RELINQUISHMENT, ABANDONMENT AND EJECTMENT.

Relinquishment.

Relinquishment by tenant for a fixed term.

35. A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

Relinquishment by any other tenant.

36. (*1*) Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord, or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(*2*) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (*1*), apply to a Revenue-officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue-officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(*3*) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

Relinquishment of part only of a tenancy.

37. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

Abandonment.

Abandon-

38. If a tenant having a right of occupancy fails for more than one year

without sufficient cause to cultivate his tenancy, either by himself or some other person, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year.

ment of tenancy by occupancy-tenant.

Ejectment.

Liability to Ejectment.

39. A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely :—

Grounds of ejectment of occupancy-tenant.

(*a*) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(*b*) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(*c*) that a decree for an arrear of rent in respect of the tenancy has been passed against him and remains unsatisfied.

40. A tenant not having a right of occupancy, but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof, namely :—

Grounds of ejectment of tenant for a fixed term.

(*a*) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(*b*) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(*c*) on any ground which would justify ejectment under the contract, decree or order.

41. A tenant who has not a right of occupancy, and does not hold for a fixed term under a contract or a decree or order of competent authority, may be ejected at the end of any agricultural year.

Ejectment of tenant from year to year.

Procedure on Ejectment.

42. A tenant shall not be ejected otherwise than in execution of a decree for ejectment, except in the following cases, namely :—

Restriction on ejectment.

(*a*) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied;

(*b*) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority.

43. In any such case as is mentioned in clause (*a*) or clause (*b*) of the last foregoing section, the landlord may apply to a Revenue-officer for the ejectment of the tenant in the case mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause.

Application to Revenue-officer for ejectment.

Ejectment for failure to satisfy decree for arrear of rent.

44. (*1*) On receiving the application in any such case as is mentioned in clause (*a*) of section 42 the Revenue-officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land.

(*2*) If the amount is not so paid, the Revenue-officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

Ejectment of tenant from year to year by notice.

45. (*1*) On receiving the application of the landlord in any such case as is mentioned in clause (*b*) of section 42, the Revenue-officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

(*2*) A notice under sub-section (*1*) shall not be served after the fifteenth day of November in any year.

(*3*) The notice shall specify the name of the landlord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

(*4*) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment he should, within two months from the date of the service of the notice, prefer his claim to the Revenue-officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(*5*) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected, a Revenue-officer, on the application of the landlord, shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant:

Provided that the Revenue-officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(*6*) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

Power to make rules.

46. The Financial Commissioner may make rules prescribing—

(*a*) the form and language of applications and notices under the two last foregoing sections; and

(*b*) the manner in which those applications and notices are to be signed and attested.

GENERAL PROVISIONS RESPECTING EJECTMENT.

47. A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under section 44, the officer making the order, otherwise directs. Time for ejectment.

48. (*1*) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (*a*) and (*b*) of section 39 or of section 40 it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit. Relief against forfeiture.

(*2*) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (*1*).

(*3*) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

49. (*1*) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them. Rights of ejected tenants in respect of crops and land prepared for sowing.

(*2*) The Court or Revenue-officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (*1*) between the landlord and tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(*a*) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (*1*) such rent as may be fair and equitable, or

(*b*) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue-officer, forthwith eject the tenant.

(*3*) When a tenant for whose ejectment proceedings have been taken has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

RELIEF FOR WRONGFUL DISPOSSESSION.

Relief for wrongful dispossession or ejectment.

50. In either of the following cases, namely:—

(*a*) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under section 44 or section 45,

(*b*) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation, or for both.

Bar of relief by suit under section 9, Act I of 1877.

51. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof. I of 1877.

Power to vary Dates prescribed by this Chapter.

Power for Local Government to fix dates for certain purposes.

52. (*1*) The Local Government may, for all or any of the territories under its administration, by notification, fix for the purposes of sections 36, 45 and 47, or of any of those sections, any other dates instead of those specified therein.

(*2*) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

CHAPTER V.

ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY.

Alienation.

Private transfer of right of occupancy under section 5 by tenant.

53. (*1*) A tenant having a right of occupancy under section 5 may transfer that right by sale, gift or mortgage, subject to the conditions mentioned in this section.

(*2*) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue-officer, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

(*3*) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(*4*) When the application to the Revenue-officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(*5*) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints.

(*6*) On the value being so paid, the right of occupancy shall be extinct, and the Revenue-officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(*7*) If the right of occupancy was already mortgaged, the tenancy shall pass to the landlord unincumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase-money.

(*8*) If there is no such charge as aforesaid, the Revenue-officer shall, subject to any directions which he may receive from any Court, pay the purchase-money to the tenant.

(*9*) If there is such a charge, the Revenue-officer shall, subject as aforesaid, either apply in discharge of the mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(*10*) Where there are several landlords of a tenancy, any one of them may be deemed to be the landlord for the purposes of this section.

(*11*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under the two last foregoing sub-sections, but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue-officer.

Procedure on foreclosure of mortgage of right of occupancy under section 5.

54. Where a mortgagee of a right of occupancy under section 5 proposes to foreclose his mortgage, or otherwise enforce his lien on the land subject to the right, the provisions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

Sale of right of occupancy under section 5 in execution of decree.

55. (*1*) A right of occupancy under section 5 may be sold in execution of a decree or order of a Court;

(*2*) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

Transfer of right of occupancy under any other section than section 5.

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord, be transferred by private contract.

Rights and liabilities of transferee

57. When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord, that person shall, in

of right of occupancy.

respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities, as the tenant to whom before the transfer the right belonged had and was subject to.

Subletting.

58. (*1*) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(*2*) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act.

Succession.

Succession to right of occupancy.

59. (*1*) When a tenant having a right of occupancy in any land dies, the right shall devolve—

(*a*) on his male lineal descendants, if any, in the male line of descent, and,

(*b*) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom, and,

(*c*) failing such descendants and widow, or, if the deceased tenant left a widow, then when her interest terminates under clause (*b*) of this sub-section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives:

Provided, with respect to clause (*c*) of this sub-section, that the common ancestor occupied the land.

(*2*) As among descendants and collateral relatives claiming under sub-section (*1*), the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(*3*) When the widow of a deceased tenant succeeds to a right of occupancy, she shall not transfer the right by sale, gift or mortgage, or by sub-lease for a term exceeding one year.

(*4*) If the deceased tenant has left no such persons as are mentioned in sub-section (*1*) on whom his right of occupancy may devolve under that sub-section, the right shall be extinguished.

Irregular Transfers.

Irregular transfer of right of occupancy.

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this Chapter shall be voidable at the instance of the landlord.

CHAPTER VI.

IMPROVEMENTS AND COMPENSATION.

Improvements by Landlords.

Improvements by landlords on tenancies of occupancy-tenants.

61. (*1*) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(*2*) If a landlord desires to make such an improvement he may apply to the Collector for permission to make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(*3*) In making an order on an application under sub-section (*2*) the Collector shall be guided by such rules, if any, as the Local Government may, with the previous sanction of the Governor General in Council, make in this behalf.

Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy-tenant.

62. (*1*) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant.

(*2*) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages.

(*3*) If the tenant is a tenant to whom section 22 applies, the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land-revenue were re-assessed.

(*4*) When the improvement ceases to exist, the Collector may, on the application of the tenant, reduce the tenant's rent,—

(*a*) in the case of a tenant to whom sub-section (*2*) applies, to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages; and

(*b*) in the case of a tenant to whom sub-section (*3*) applies, to such an amount as the tenant would be liable to pay if the land-revenue were re-assessed.

(*5*) Sections 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

Improvements by Tenants.

Title of occupancy-tenant to make improvements.

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

Title of tenants not having right of occupancy to make improvements.

64. (*1*) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

(*2*) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

Improvements made before commencement of this Act.

65. Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

Improvements begun in anticipation of ejectment.

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

Tender of lease for twenty-years to tenant to be a bar to right to compensation.

67. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.

68. Subject to the foregoing provisions of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

Compensation for Disturbance of Clearing Tenants.

Compensation for disturbance of clearing tenants.

69. (*1*) A tenant who has cleared and brought under cultivation waste-land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case, but not exceeding five years' rent of the land:

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(*2*) If rent has been paid for the land by division or appraisement of the produce, or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land-revenue of the land and the rates and cesses chargeable thereon, has been paid therefor, the compensation may be computed as if double the amount of the land-revenue of the land were the annual rent thereof.

Procedure in determining Compensation.

Determination of com-

70. (*1*) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct

the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

Compensation by Revenue Courts.

(*2*) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

71. In either of the following cases, namely:—

Determination of compensation by Revenue-officers.

(*a*) when a notice has been served on a tenant under section 44,

(*b*) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected,

the tenant may apply to the Revenue-officer having authority to order his ejectment under section 44 or section 45, as the case may be, to determine the amount of compensation due to him for improvements or for disturbance, or for both, and the Revenue-officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the landlord from the tenant.

72. In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue-officer shall have regard to—

Matters to be regarded in assessment of compensation for improvements.

(*a*) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;

(*b*) the condition of the improvement and the probable duration of its effects;

(*c*) the labour and capital required for the making of such an improvement;

(*d*) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement; and

(*e*) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

73. (*1*) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

Form of compensation.

(*2*) If the parties so agree, the Court or Revenue-officer shall make an order accordingly.

Relief in case of Ejectment before Determination of Compensation.

74. (*1*) If from any cause the amount of compensation payable to a tenant—

Relief in case of ejectment before determination of compensation.

(*a*) under this Chapter for improvements or disturbance, or

(*b*) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to.

(*2*) An order made under sub-section (*1*) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction.

Revenue-officers.

75. (*1*) There shall be the same classes of Revenue-officers under this Act as under the Punjab Land-revenue Act, 1887, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act. XVII of 1887

(*2*) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land-revenue Act, 1887.

Applications and proceedings cognizable by Revenue-officers.

76. (*1*) The following applications and proceedings shall be disposed of by Revenue-officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had :—

FIRST GROUP.

(*a*) proceedings under section 27 for the adjustment of rents expressed in terms of the land-revenue;

(*b*) proceedings relating to the remission and suspension of rent under section 30;

(*c*) applications under section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;

(*d*) applications under section 45, sub-section (*5*), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has claimed compensation under section 71;

(*e*) applications under section 53 or section 54 for the fixing of the value of a right of occupancy;

(*f*) applications under section 53 or section 54 by landlords for possession of land, the right of occupancy in which has become extinct;

(*g*) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

SECOND GROUP.

(*h*) applications under section 17 with respect to the division or appraisement of produce;

(*i*) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under section 71;

(*j*) applications for the determination—

(i) under section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or

(ii) under section 49 or section 74 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;

THIRD GROUP.

(*k*) applications under section 31 by tenants to deposit rent;

(*l*) applications under section 36 for service of notice of relinquishment;

(*m*) applications under section 43 for service of notice of ejectment;

(*n*) applications under section 53 or section 54 for service of notice of intended transfer or of intended foreclosure or other enforcement of lien.

(*2*) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(*a*) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (*1*);

(*b*) an Assistant Collector of the second grade, not being a Naib-tahsildár, may dispose of any of the applications mentioned in the second and third groups of that sub-section; and

(*c*) a Naib-tahsildár, when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

Revenue Courts and suits cognizable by them.

77. (*1*) When a Revenue-officer is exercising jurisdiction with respect to any such suit as is described in sub-section (*3*), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(*2*) There shall be the same classes of Revenue Courts as of Revenue-officers under this Act, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(*3*) The following suits shall be instituted in and heard and determined by Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted :—

FIRST GROUP.

(*a*) suits between landlord and tenant for enhancement or reduction of rent under section 24;

(*b*) suits between landlord and tenant for addition to or abatement of rent under section 28 or for commutation of rent;

(*c*) suits under section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land-revenue;

SECOND GROUP.

(*d*) suits by a tenant to establish a claim to a right of occupancy, or by a landlord to prove that a tenant has not such a right;

(*e*) suits by a landlord to eject a tenant;

(*f*) suits by a tenant under section 45 to contest liability to ejectment, when notice of ejectment has been served;

(*g*) suits by a tenant under section 50 for recovery of possession or occupancy, or for compensation, or for both;

(*h*) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made, or for both purposes;

(*i*) any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held;

(*j*) suits for sums payable on account of village-cesses or village-expenses;

(*k*) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts;

(*l*) suits for the recovery of over-payments of rent or land-revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section:

(*m*) suits relating to the emoluments of kánúngos, zaildárs, inámdárs or village-officers;

THIRD GROUP.

(*n*) suits by a landlord for arrears of rent or the money-equivalent of rent, or for sums recoverable under section 14;

(*o*) suits by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage and forest-rights;

(*p*) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by a superior landowner for other sums due to him as such.

(*4*) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(*a*) a Collector may hear and determine any of the suits mentioned in sub-section (*3*);

(*b*) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the Local Government, any of the suits mentioned in the first group; and

(*c*) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

Administrative Control.

Superintendence and control of Revenue-officers and Revenue Courts.

78. (*1*) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

(*2*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers and Revenue Courts in his division.

(*3*) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers and Revenue Courts in his district.

Power to distribute business and withdraw and transfer cases.

79. (*1*) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer or Revenue Court under his control.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower any Revenue-officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

Appeal, Review and Revision.

Appeals.

80. Subject to the provisions of this Act and the rules thereunder, an

appeal shall lie from an original or appellate order or decree made under this Act by a Revenue-officer or Revenue Court, as follows, namely :—

(*a*) to the Collector when the order or decree is made by an Assistant Collector of either grade ;

(*b*) to the Commissioner when the order or decree is made by a Collector;

(*c*) to the Financial Commissioner when the order or decree is made by a Commissioner :

Provided that—

(i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the Local Government in a suit mentioned in the first group of sub-section (*3*) of section 77 shall lie to the Commissioner and not to the Collector ;

(ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie ;

(iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

Limitation for appeals.

81. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say :—

(*a*) when the appeal lies to the Collector—thirty days ;

(*b*) when the appeal lies to the Commissioner—sixty days ;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review by Revenue-officers.

82. (*1*) A Revenue-officer, as such, may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office :

Provided as follows :—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject ;

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

Computation of periods limited for appeals and applications for review.

83. In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877.

XV of 1877.

Power to call for, examine and revise proceedings of Revenue-officers and Revenue Courts.

84. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court subordinate to him.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(*4*) If, after examining a record called for by himself under sub-section (*1*) or submitted to him under sub-section (*3*), the Financial Commissioner is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly.

(*5*) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the Chief Court in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(*6*) Except when the Financial Commissioner fixes under sub-section (*5*) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

Procedure.

Procedure of Revenue-officers.

85.[a] (*1*) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(*2*) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all

[a] For rules under s. 85 (*1*), see Notification No. 77, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 79.

or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) The rules may also provide for the mode of executing orders as to costs, and may adapt to proceedings under this Act all or any of the provisions of the Punjab Land-revenue Act, 1887, with respect to arbitration. XVII of 1887.

(*4*) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances may be made before Revenue-officers as such and not as Revenue Courts.

86. (*1*) Appearances before a Revenue-officer as such, and applications to and acts to be done before him, under this Act may be made or done—

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(*2*) For the purposes of sub-section (*1*), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(*3*) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Costs.

87. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit:

(*2*) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Procedure of Revenue Courts.

88. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before those Courts. XIV of 1882.

(*2*) Until rules are made under sub-section (*1*), and subject to those rules when made and to the provisions of this Act,—

(*a*) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(*b*) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.

Power of Revenue-officer or Revenue Court to summon persons.

89. (*1*) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue-officer or Revenue Court.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer or Revenue Court may require.

Mode of service of summons.

90. (*1*) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his recognized agent or (*c*) an adult male member of his family who is residing with him.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866.

XV of 1866.

(*5*) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

91. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Additional mode of

92. When a proclamation relating to any land is issued by a Revenue-officer or Revenue Court, it shall, in addition to any other mode of publication

publishing proclamation.

which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Joinder of tenants as parties to proceedings relating to rent.

93. (*1*) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue-officer or Revenue Court and subject to any rules which the Local Government may make in this behalf, be made parties to any proceeding under Chapter III;

(*2*) But a decree or order shall not be made in any such proceeding unless the Revenue-officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(*3*) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby.

Exception of suits under this Act from operation of certain enactments.

94. Nothing in section 424 of the Code of Civil Procedure, or in section 36 of the Punjab Municipal Act, 1884, shall be construed to apply to a suit of a class mentioned in section 77 of this Act. XIV of 1882. XIII of 1884.

Payment into Court of money admitted to be due to a third person.

95. (*1*) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(*2*) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(*3*) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(*4*) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (*3*).

(*5*) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Execution of decrees for arrears of rent.

96. A Court passing a decree for an arrear of rent may, on the oral application of the decree-holder, order execution thereof against the moveable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.

97. A tenant shall not during the continuance of his occupancy be liable to imprisonment on the application of his landlord in execution of a decree for an arrear of rent.

98. (*1*) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

Power to refer party to Civil Court.

(*2*) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

99. (*1*) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the Divisional Judge or Commissioner, or, if he is a Divisional Judge or Commissioner, directly to the Chief Court.

Power to refer to Chief Court questions as to jurisdiction.

(*2*) On any such reference being made, the Chief Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(*3*) The order of the Chief Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

100. (*1*) In either of the following cases, namely :—

Power of Chief Court to validate proceedings had under mistake as to jurisdiction.

(*a*) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, or

(*b*) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the Chief Court.

(*2*) If on perusal of the record it appears to the Chief Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the Chief Court may order that the decree be registered in the Court which had jurisdiction.

(*3*) If it appears to the Chief Court, otherwise than on submission of a record under sub-section (*1*), that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, the

Chief Court may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(*4*) With respect to any proceeding subsequent to decree, the Chief Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(*5*) An order of the Chief Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.

(*6*) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceedings arising out of any such suit.

Miscellaneous.

Place of sitting.

101. (*1*) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(*2*) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

Holidays.

102. (*1*) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

(*2*) A proceeding had before a Revenue-officer or Revenue Court on a day specified in the list as a day to be observed by the officer or Court as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

103. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

104. When a Revenue-officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer or Revenue Court.

105. (*1*) The Local Government may by notification confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(*b*) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may by notification withdraw any powers so conferred.

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(*3*) Before conferring powers on the Judge of a Civil Court under sub-section (*1*), the Local Government shall consult the Chief Court.

(*4*) If any of the powers of a Collector under section 78, section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

Power for Financial Commissioner to make rules.

106.[a] (*1*) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules, consistent with this Act and any other enactment for the time being in force,—

(*a*) determining, notwithstanding anything in any record-of-rights, the number and amount of the instalments and the times by and at which rent is to be paid;

(*b*) for the guidance of Revenue-officers in determining, for the purposes of this Act, the amount of the land-revenue of any land;

(*c*) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue-officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority;

(*f*) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English; and

(*g*) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act.

(*2*) Until rules are made under clause (*a*) of sub-section (*1*), rent shall be payable by the instalments and at the times by and at which it is now payable.

---

[a] For rules of Financial Commissioner under s. 106 (*1*), see Notifications Nos. 78 and 79, *Punjab Gazette*, Extraordinary, 1st March, 1888, pp. 81 and 86, respectively.

(*3*) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government.

Rules to be made after previous publication.

107. The power to make any rules under this Act is subject to the control of the Governor General in Council, and to the condition of the rules being made after previous publication.[a]

Powers exerciseable by Financial Commissioner from time to time.

108. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

CHAPTER VIII.

EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS AND AGREEMENTS.

Nullity of certain entries in records-of-rights.

109. An entry in any record-of-rights providing—

(*a*) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor, or

(*c*) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,

shall be void to that extent.

Nullity of certain agreements contrary to the Act.

110. (*1*) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall—

(*a*) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 5 or section 6, or

(*b*) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(*c*) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(*2*) Nothing in clause (*a*) of sub-section (*1*) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

Saving of other agree-

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the

[a] For provisions as to making of rules after "previous publication," see Act I of 1887, s. 6.

XVII of 1887.

agreement either is in writing or has been recorded in a record-of-rights before the passing of the Punjab Land-revenue Act, 1887, or been entered by order of a Revenue-officer in a record-of-rights or annual record under the provisions of that Act.

ments when in writing.

112. An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the Local Government, namely :—

Effect of certain entries made in records-of-rights before November, 1871.

(*a*) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisement of the produce or other procedure of a like nature, or

(*b*) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

THE SCHEDULE.

(*See section 3.*)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council.		
*XXVIII of 1868	Punjab Tenancy Act.	The whole.
VIII of 1873	Northern India Canal and Drainage Act.	Sections 40 to 43, both inclusive.
XIV of 1875	Punjab Judicial Administration Act.	So much as has not been repealed.
XVIII of 1884	Punjab Courts Act	Section 3, clauses (*1*), (*2*), (*4*), (*5*), (*6*) and (*7*); the whole of Chapter V; the last seventeen words of sub-section (*1*) of section 67; section 70 so far as regards Revenue Courts; and section 75.

* So much of s. 3 of Act XVI of 1887 as related to Act XXVIII of 1868 was excepted when the former Act was extended to the Hazára District—see Reg. XIII of 1887, s. 3, *infra*, p. 406.

THE PUNJAB LAND-REVENUE ACT, 1887.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Definitions.
4. Exclusion of certain land from operation of Act.
5. Power to vary limits and alter number of tahsils, districts and divisions.

CHAPTER II.

REVENUE-OFFICERS.

Classes and Powers.

6. Classes of Revenue-officers.
7. Financial Commissioner.
8. Appointment of Commissioners, and of Deputy, Assistant and Extra Assistant Commissioners.
9. Appointment of Tahsildárs and Naib-tahsildárs.
10. Powers of Revenue-officers.

Administrative Control.

11. Superintendence and control of Revenue-officers.
12. Power to distribute business and withdraw and transfer cases.

Appeal, Review and Revision.

13. Appeals.
14. Limitation for appeals.
15. Review by Revenue-officers.
16. Power to call for, examine and revise proceedings of Revenue-officers.

Procedure.

17. Power to make rules as to procedure.
18. Persons by whom appearances and applications may be made before and to Revenue-officers.

SECTIONS.

19. Power of Revenue officer to summon persons.
20. Mode of service of summons.
21. Mode of service of notice, order or proclamation or copy thereof.
22. Mode of making proclamation.

Supplemental Provisions.

23. Place of sitting.
24. Holidays.
25. Discharge of duties of Collector dying or being disabled.
26. Retention of powers by Revenue-officers on transfer.
27. Conferment of powers of Revenue-officer.

CHAPTER III.

KÁNÚNGOS, ZAILDÁRS, INÁMDÁRS AND VILLAGE-OFFICERS.

28. Rules respecting kánúngos, zaildárs, inámdárs and village-officers.
29. Village-officers' cess.
30. Restriction on attachment or assignment of remuneration of kánúngos, zaildárs, inámdárs and village-officers.

CHAPTER IV.

RECORDS.

Records-of-rights and Annual Records.

31. Record-of-rights and documents included therein.
32. Making or special revision of record-of-rights.
33. Annual record.

Procedure for making Records.

34. Making of that part of the annual record which relates to landowners, assignees of revenue and occupancy-tenants.
35. Making of that part of the annual record which relates to other persons.
36. Determination of disputes.
37. Restrictions on variation of entries in records.
38. Mutation-fees.
39. Penalty for neglect to report acquisition of any right referred to in section 34.
40. Obligation to furnish information necessary for the preparation of records.

Rights of the Government and presumptions with respect thereto and to other matters.

SECTIONS.

41. Rights of the Government in mines and minerals.
42. Presumption as to ownership of forests, quarries and waste-lands.
43. Compensation for infringement of rights of third parties in exercise of a right of the Government.
44. Presumption in favour of entries in records-of-rights and annual records.
45. Suit for declaratory decree by person aggrieved by an entry in a record.

Supplemental Provisions.

46. Power to make rules respecting records and other matters connected therewith.
47. Records-of-rights and annual records for groups of estates.

CHAPTER V.

ASSESSMENT.

48. Assessment of land-revenue.

General Assessments.

49. Notification of intended re-assessment and instructions as to principles of assessment.
50. Mode of determining assessment.
51. Announcement of assessment.
52. Application for re-consideration of assessment.
53. Confirmation and duration of assessment.
54. Assessment to remain in force till new assessment takes effect.
55. Refusal to be liable for assessment and consequences thereof.
56. Distribution of the assessment of an estate over the holdings comprised therein.
57. Application for amendment of the distribution of an assessment.
58. Appeals from orders under sections 52 and 57.

Special Assessments.

59. Special Assessments.
60. Formation of waste-land into separate estates.

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

61. Security for payment of land-revenue.
62. Further security for payment of land-revenue.

SECTIONS.

63. Orders to regulate payment of land-revenue.
64. Rules to regulate collection, remission and suspension of land-revenue.
65. Costs recoverable as part of arrear.
66. Certified account to be evidence as to arrear.
67. Processes for recovery of arrears.
68. Writ of demand.
69. Arrest and detention of defaulter.
70. Distress and sale of moveable property and crops.
71. Transfer of holding.
72. Attachment of estate or holding.
73. Annulment of assessment of estate or holding.
74. Proclamation of attachment or annulment of assessment, and consequences of the proclamation.
75. Sale of estate or holding.
76. Effect of sale on incumbrances.
77. Proceedings against other immoveable property of defaulter.
78. Remedies open to person denying his liability for an arrear.

Procedure in Sales.

79. Proclamation of sale.
80. Indemnity to Revenue-officer with respect to contents of proclamation.
81. Publication of proclamation.
82. Time and conduct of sale.
83. Power to postpone sale.
84. Stay of sale.
85. Payment of deposit by highest bidder.
86. Consequences of failure to pay deposit.
87. Exercise of right of pre-emption.
88. Time for payment in full.
89. Procedure in default of payment.
90. Report of sale to Commissioner.
91. Application to set aside sale.
92. Order confirming or setting aside sale.
93. Refund of purchase-money on setting aside of sale.
94. Proclamation after postponement or on re-sale.
95. On confirmation of sale, possession and certificate to be granted to purchaser.
96. Proceeds of sale.

CHAPTER VIII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

97. Recovery of certain arrears through Revenue-officer instead of by suit.
98. Other sums recoverable as arrears of land-revenue.
99. Application of Chapter VI to sums recoverable under this Chapter.

CHAPTER VIII.

SURVEYS AND BOUNDARIES.

SECTIONS.

100. Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey-marks.
101. Power of Revenue-officers to define boundaries.
102. Cost of erection and repair of survey-marks.
103. Recovery of cost incurred by the Government.
104. Power of Revenue-officers to enter on land for purposes of survey and demarcation.
105. Surveys for purpose of preparation of records.
106. Provision of flagholders and chainmen for those surveys.
107. Professional surveys.
108. Penalty for destruction, injury or removal of survey-marks.
109. Report of destruction or removal of or injury to survey-marks.

CHAPTER IX.

PARTITION.

110. Effect of partitions of estates and tenancies on joint liability for revenue and rent.
111. Application for partition.
112. Restrictions and limitations on partition.
113. Notice of application for partition.
114. Addition of parties to application.
115. Absolute disallowance of partition.
116. Procedure on admission of application.
117. Disposal of questions as to the title in property to be divided.
118. Disposal of other questions.
119. Administration of property excluded from partition.
120. Distribution of revenue and rent after partition.
121. Instrument of partition.
122. Delivery of possession of property allotted on partition.
123. Affirmation of partitions privately effected.
124. Power to make rules as to costs of partitions.
125. Re-distribution of land according to custom.
126. Revenue-officers empowered to act under this Chapter.

CHAPTER X.

ARBITRATION.

127. Power to refer to arbitration.
128. Order of reference and contents thereof.

SECTIONS.

129. Nomination of arbitrators.
130. Substitution of arbitrators by parties.
131. Nomination and substitution of arbitrators by Revenue-officers.
132. Process for appearance before arbitrators.
133. Award of arbitrators and presentation thereof.
134. Procedure on presentation of award.
135. Effect of award.

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

136. Power to invest officers making records-of-rights or general re-assessments with powers of Civil Courts.
137. Control over such officers and appeals from and revision of their decrees and orders.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue-deposits.

138. Power to deposit certain sums other than rent.
139. Deposit on account of a payment due to Government.
140. Procedure in case of other deposits.

Execution of Orders of Civil and Criminal Courts by Revenue-officers.

141. Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue-officer.
142. Attachment of assigned land-revenue.

Preservation of attached Produc

143. Preservation of attached produce.

Division of Produce.

144. Division of produce.

Miscellaneous.

145. Village-cesses.
146. Superior landowners' dues.
147. Substitution of service for payment of land-revenue.
148. Recovery of cost of assessing assigned land-revenue.
149. Penalty for failure to attend within limits of estate in obedience to order of Revenue-officer.

SECTIONS.

150. Prevention of encroachment on common lands.
151. Papers kept by village-officers to be deemed public documents.
152. Costs.
153. Computation of periods limited for appeals and applications for review.
154. Restriction on Revenue-officers bidding at auctions or trading.
155. Power to make rules.
156. Rules to be made after previous publication.
157. Powers exerciseable by the Financial Commissioner from time to time.

Exclusion of Jurisdiction of Civil Courts.

158. Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

THE SCHEDULE.—ENACTMENTS REPEALED.

ACT No. XVII OF 1887.

Received the Governor General's assent on the 23rd September, 1887.

An Act to amend and declare the Land-revenue Law of the Punjab.

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Land-revenue Act, 1887.

(*2*) It extends to the territories for the time being administered by the Lieutenant-Governor of the Punjab, including the pargana of Spiti, but not so as to affect, otherwise than as expressly provided by this Act,[a] any Regulation in force under the provisions of the Statute 33 Victoria, chapter 3, section 1, in any portion of those territories; and

[b](*3*) It shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, may by notification appoint in this behalf.

(*4*) Any power conferred by this Act on the Financial Commissioner

[a] *e.g.* s. 2 and schedule.

[b] The Act was brought into force on the 1st November, 1887—see Notification No. 727, *Punjab Gazette*, 3rd November, 1887, Part I, p. 578.

to make rules, and on the Local Government to sanction them, may be exercised at any time after the passing of this Act, but a rule so made shall not take effect till the commencement of this Act.

2. (*1*) The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof. Repeal.

(*2*) But all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and other records framed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed and other things done under any of the repealed enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(*1*) "estate" means any area—

(*a*) for which a separate record-of-rights has been made; or

(*b*) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed; or

(*c*) which the Local Government may, by general rule or special order, declare to be an estate:

(*2*) "landowner" does not include a tenant or an assignee of land-revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate:

(*3*) "holding" means a share or portion of an estate held by one landowner or jointly by two or more landowners:

(*4*) "rent," "tenant," "landlord" and "tenancy" have the meanings respectively assigned to those words in the Punjab Tenancy Act, 1887: XVI of 1887.

(*5*) "pay," with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render," with their grammatical variations and cognate expressions:

(*6*) "land-revenue" includes assigned land-revenue and any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment:

(*7*) "arrear of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable:

(*8*) "defaulter" means a person liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear:

(*9*) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

(*a*) the local rate, if any, payable under the Punjab Local Rates Act, 1878[a]; V of 1878.

(*b*) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from landowners for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act; XX of 1883.

(*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873; VIII of 1873

(*d*) the zaildári and village-officers' cesses; and

(*e*) sums payable on account of village-expenses:

(*10*) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force:

(*11*) "village-officer" means a chief headman, headman or patwári:

(*12*) "Revenue-officer," in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision:

(*13*) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtár: XVIII of 1879.

(*14*) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area:

(*15*) "notification" means a notification published by authority of the Local Government in the official Gazette:

(*16*) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract: and

(*17*) "survey-mark" includes boundary-mark.

Exclusion of certain land from operation of Act.

4. (*1*) Except so far as may be necessary for the record, recovery and administration of village-cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(*2*) A Revenue-officer may define for the purposes of this Act the limits of any such land.

Power to vary limits and alter number of tahsils, districts and divisions.

5. The Local Government may by notification vary the limits of the tahsils, districts and divisions into which the territories administered by it are divided, and may by notification alter the number of those tahsils and, with the previous sanction of the Governor General in Council, the number of those districts and divisions.

[a] Act V of 1878 has not been reprinted—see preface, para. 8.

CHAPTER II.

REVENUE-OFFICERS.

Classes and Powers.

Classes of Revenue-officers.

6. (*1*) There shall be the following classes of Revenue-officers, namely:—

(*a*) the Financial Commissioner;

(*b*) the Commissioner;

(*c*) the Collector;

(*d*) the Assistant Collector of the first grade; and

(*e*) the Assistant Collector of the second grade.

(*2*) The Deputy Commissioner of a district shall be the Collector thereof.

(*3*) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildár to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib-tahsildár to be an Assistant Collector of the second grade.

(*4*) Appointments under sub-section (*3*) shall be by notification, and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(*5*) Subject to the provisions of this Act the jurisdiction of the Financial Commissioner extends to the whole of the territories for the time being administered by the Lieutenant-Governor of the Punjab, and of Commissioners and of Collectors and Assistant Collectors to the divisions and districts respectively in which they are for the time being employed.

Financial Commissioner

7. (*1*) There shall be one or more Financial Commissioners, who shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Where more Financial Commissioners than one have been appointed, the Local Government may make rules as to the distribution among them of business under this or any other Act, and by those rules require any case or class or classes of cases to be considered and disposed of by the Financial Commissioners collectively.

(*3*) When there is a difference of opinion among the Financial Commissioners as to any decree or order to be made in a case, which they are required by rules under the last foregoing sub-section to consider and dispose of collectively, the following rules shall apply, namely:—

(*a*) where the case is an appeal or a case on review or revision, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners, or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review or revision, that decree or order shall be affirmed; and

(*b*) where the case is not an appeal or a case on review or revision, the matter respecting which there is the difference of opinion shall be

* For rules under s. 7 (*2*), see Notification No. 132, *Punjab Gazette*, Extraordinary, 1st March 1888, p. 1.

referred to the Local Government for decision, and the decision of that Government with respect thereto shall be final.

(*4*) The expression "Financial Commissioner" in this or any other Act shall, when there are more Financial Commissioners than one, be construed as meaning one or more of the Financial Commissioners as the rules for the time being in force under sub-section (*2*) may require.

(*5*) The second Financial Commissioner appointed under section 52 of the Punjab Courts Act, 1884, shall be deemed to have had jurisdiction on and after the first day of November, 1884, to make any decree or order or dispose of any other business which might have been made or disposed of by the other Financial Commissioner. XVIII of 1884.

Appointment of Commissioners, and of Deputy, Assistant and Extra Assistant Commissioners.

8. Commissioners, Deputy Commissioners, Assistant Commissioners and Extra Assistant Commissioners shall be appointed and may be removed by the Local Government.

Appointment of Tahsildárs and Naib-tahsildárs.

[a]9. The Local Government shall fix the number of Tahsildárs and Naib-tahsildárs to be appointed, and the Financial Commissioner may make rules for their appointment and removal.

Powers of Revenue-officers.

[b]10. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Act, the Local Government may by notification determine the functions to be discharged under this Act by any class of Revenue-officers.

Administrative Control.

Superintendence and control of Revenue-officers.

[c]11. (*1*) The Financial Commissioner shall be subject to the control of the Local Government.

(*2*) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(*3*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.

(*4*) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and withdraw and transfer cases.

12. (*1*) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer under his control.

---

[a] For rules under s. 9, see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 53.

[b] For directions under s. 10, see Notification No. 81, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 93.

[c] For rules under s. 11 (*1*), see Notification No. 132, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 1.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

Appeal, Review and Revision.

13. Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely :— **Appeals.**

(*a*) to the Collector, when the order is made by an Assistant Collector of either grade ;

(*b*) to the Commissioner, when the order is made by a Collector ;

(*c*) to the Financial Commissioner, when the order is made by a Commissioner :

Provided that—

(i) when an original order is confirmed on first appeal, a further appeal shall not lie ;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

14. Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say :— **Limitation for appeals.**

(*a*) when the appeal lies to the Collector—thirty days ;

(*b*) when the appeal lies to the Commissioner—sixty days ;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

15. (*1*) A Revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or any of his predecessors in office : **Review by Revenue-officers.**

Provided as follows :—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject ;

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

Power to call for, examine and revise proceedings of Revenue-officers.

16. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(*4*) The Financial Commissioner may in any case called for by himself under sub-section (*1*) or reported to him under sub-section (*3*) pass such order as he thinks fit:

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

Power to make rules as to procedure.

17. [a](*1*) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(*2*) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances and applications may be made before and to Revenue-officers.

18. (*1*) Appearances before a Revenue-officer, and applications to and acts to be done before him, under this Act may be made or done—

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

[a] For rules under s. 17 (*1*), see Notification No. 75, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 51.

(*2*) For the purposes of sub-section (*1*), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(*3*) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Power of Revenue-officer to summon persons.

19. (*1*) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require.

Mode of service of summons.

20. (*1*) A summons issued by a Revenue-officer shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or, failing him, on (*b*) his recognized agent, or (*c*) an adult male member of his family usually residing with him.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866.

XIV of 1866.

(*5*) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

21. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

22. When a proclamation relating to any land is issued by a Revenue-officer, it shall, in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Supplemental Provisions.

Place of sitting.

23. (*1*) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(*2*) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction.

Holidays.

24. (*1*) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers.

(*2*) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

25. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

26. When a Revenue-officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer.

27. (*1*) The Local Government may by notification confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(*b*) all or any of the powers with which an Assistant Collector may be invested thereunder,

and may by notification withdraw any powers so conferred.

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed to be a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(*3*) If any of the powers of a Collector under this Act are conferred on an

Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

CHAPTER III.

KÁNÚNGOS, ZAILDÁRS, INÁMDÁRS AND VILLAGE-OFFICERS.

Rules respecting kánúngos, zaildárs, inámdárs and village-officers.

*28. (*1*) The Financial Commissioner may make rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of kánúngos, zaildárs, inámdárs and village-officers.

(*2*) Rules under sub-section (*1*) may direct that the emoluments of a zaildár, inámdár or village-officer shall be such a percentage payable out of the land-revenue as may be prescribed by the rules, and that, where the land-revenue has been released, compounded for or redeemed, the percentage shall be a charge payable by the person who would be liable for the land-revenue if it had not been released, compounded for or redeemed.

Village-officers' cess.

*29. (*1*) The Local Government may by notification impose on any estate, or on all or any estates in any local area, a cess, to be called the village-officers' cess, at a rate not exceeding one anna for every rupee of the annual value, for remunerating village-officers and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

(*2*) "Annual value" in the last foregoing sub-section has the meaning assigned to that expression in the Punjab District Boards Act, 1883. XX of 1883.

(*3*) The Financial Commissioner may make rules for the collection, control and expenditure of the village-officers' cess.

(*4*) All cesses now levied in any local area for the purposes mentioned in sub-section (*1*) shall be deemed to have been lawfully imposed and shall, until the village-officers' cess is imposed in that local area under that sub-section, be deemed to be lawfully leviable and, for the purposes of this section, to be that cess.

Restriction on attachment or assignment of remuneration of kánúngos, zaildárs, inámdárs and village-officers.

30. (*1*) The emoluments of a kánúngo, zaildár, inámdár or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(*2*) An assignment of, or charge on or an agreement to assign or charge, any such emoluments shall be void unless it is authorized by rules made by the Financial Commissioner in this behalf.

CHAPTER IV.

RECORDS.

Records-of-rights and Annual Records.

Record-of-rights and documents

31. (*1*) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

* For rules under ss. 28 and 29, see Notifications Nos. 74 and 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, pp. 3 and 53.

included therein.

(2) The record-of-rights for an estate shall include the following documents, namely :—

(a) statements showing, so far as may be practicable,—

(i) the persons who are landowners, tenants or assignees of land-revenue in the estate, or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein;

(ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto; and

(iii) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government;

(b) a statement of customs respecting rights and liabilities in the estate;

(c) a map of the estate; and

[a](d) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

Making or special revision of record-of-rights.

32. (1) When it appears to the Local Government that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, the Local Government may by notification direct that a record-of-rights be made or that the record-of-rights be specially revised, as the case may be.

(2) The notification may direct that records-of-rights shall be made or specially revised for all or any estates in any local area.

(3) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record-of-rights.

Annual record.

33. (1) The Collector shall cause to be prepared by the patwári of each estate yearly, or at such other intervals as the Financial Commissioner may prescribe, an addition of the record-of-rights amended in accordance with the provisions of this Chapter.

(2) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (2), clause (a), of section 31 and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

(3) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwári of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe.

Procedure for making Records.

Making of that part of the annual record which relates to landowners.

34. (1) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a landowner, assignee of land-revenue or tenant having a right of occupancy shall report his acquisition of the right to the patwári of the estate.

[a] For rules under s. 31 (2) see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 53.

(*2*) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwári. assignees of revenue and occupancy-tenants.

(*3*) The patwári shall enter in his register of mutations every report made to him under sub-section (*1*) or sub-section (*2*), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(*4*) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made to the patwári and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

[a] (*5*) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

35. The acquisition of any interest in land other than a right referred to in sub-section (*1*) of the last foregoing section shall,— Making of that part of the annual record which relates to other persons.

(*a*) if it is undisputed, be recorded by the patwári in such manner as the Financial Commissioner may by rules in this behalf prescribe; and,

[a] (*b*) if it is disputed, be entered by the patwári in the register of mutations and dealt with in the manner prescribed in sub-sections (*4*) and (*5*) of the last foregoing section.

36. (*1*) If during the making, revision or preparation of any record or in the course of any inquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue-officer may of his own motion, or on the application of any party interested, but subject to the provisions of the next following section, and after such inquiry as he thinks fit, determine the entry to be made as to that matter. Determination of disputes.

(*2*) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(*3*) A direction of a Revenue-officer under sub-section (*2*) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

---

[a] For fees leviable under ss. 34 (*5*) and 35 (*b*), see Notification No. 80, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 93.

Restrictions on variation of entries in records.

37. Entries in records-of-rights or in annual records, except entries made in annual records by patwáris under clause (*a*) of section 35 with respect to undisputed acquisitions of interests referred to in that section, shall not be varied in subsequent records otherwise than by—

(*a*) making entries in accordance with facts proved or admitted to have occurred;

(*b*) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties;

(*c*) making new maps where it is necessary to make them.

Mutation-fees.

38. (*1*) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries.

(*2*) A fee in respect of an entry shall be payable by the person in whose favour the entry is made.

Penalty for neglect to report acquisition of any right referred to in section 34.

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

Obligation to furnish information necessary for the preparation of records.

40. Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue-officer or village-officer engaged in compiling the record, all information necessary for the correct compilation thereof.

Rights of the Government and presumptions with respect thereto and to other matters.

Rights of the Government in mines and minerals.

41. All mines of metal and coal, and all earth-oil and gold-washings, shall be deemed to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

Presumption as to ownership of forests, quarries and waste-lands.

42. (*1*) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the landowners, it shall be presumed to belong to the Government.

(*2*) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the Government, it shall be presumed to belong to the landowners.

(*3*) The presumption created by sub-section (*1*) may be rebutted by showing—

(*a*) from the record or report made by the assessing officer at the time of assessment, or

(*b*) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist, any forest or quarry, or any such land or interest,

that the forest, quarry, land or interest was taken into account in the assessment of the land-revenue.

(*4*) Until the presumption is so rebutted, the forest, quarry, land or interest shall be held to belong to the Government.

Compensation for infringement of rights of third parties in exercise of a right of the Government.

43. (*1*) Whenever, in the exercise of any right of the Government referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay, or cause to be paid, to that person compensation for the infringement.

(*2*) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land-acquisition Act, 1870.

X of 1870.

Presumption in favour of entries in records-of-rights and annual records.

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Suit for declaratory decree by person aggrieved by an entry in a record.

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877.

I of 1877.

Supplemental Provisions.

Power to make rules respecting records and other matters connected therewith.

[a]**46.** The Financial Commissioner may make rules—

(*a*) prescribing the language in which records and registers under this Chapter are to be made;

(*b*) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;

(*c*) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;

(*d*) for the conduct of inquiries by Revenue-officers under this Chapter; and

(*e*) generally for the guidance of Revenue-officers and village-officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

Records-of-rights and annual records for groups of estates.

47. (*1*) The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates.

(*2*) The provisions of this Chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates.

[a] For rules under s. 46, see Notifications Nos. 74, 76 and 78, *Punjab Gazette*, Extraordinary, 1st March, 1888, pp. 3, 53 and 81.

CHAPTER V.

ASSESSMENT.

Assessment of land-revenue.

48. (*1*) All land, to whatever purpose applied and wherever situate, is liable to the payment of land-revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force.

(*2*) Land-revenue may be assessed in cash or in kind, or partly in cash and partly in kind, as the Local Government may direct.

(*3*) Land may be assessed to land-revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed is not payable to the Government.

General Assessments.

Notification of intended re-assessment and instructions as to principles of assessment.

49. (*1*) A general re-assessment of the land-revenue of a district or tahsil shall not be undertaken without the previous sanction of the Governor General in Council and notification of that sanction.

(*2*) In granting the sanction the Governor General in Council may prescribe such principles of assessment and give such other instructions as he thinks fit.

Mode of determining assessment.

50. (*1*) The assessment shall be made by a Revenue-officer.

(*2*) Before making it that officer shall report his proposed method of assessment for the sanction of the Financial Commissioner in such form as the Financial Commissioner, with the previous sanction of the Local Government, may prescribe.

Announcement of assessment.

51. (*1*) When the Revenue-officer has obtained the sanction of the Financial Commissioner to his proposed method of assessment, he shall make an order determining the assessment proper for each estate and announce it in such manner as the Local Government may prescribe.

(*2*) At the time of announcing the assessment he shall also declare the date from which it is to take effect, and, subject to the other provisions of this Act, it shall take effect accordingly.

Application for re-consideration of assessment.

52. (*1*) The landowner may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for a re-consideration of the amount, form or conditions of the assessment.

(*2*) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date present a like petition to the Revenue-officer.

(*3*) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Confirmation and duration of assessment.

53. (*1*) An assessment of the land-revenue of a district or tahsil shall not be considered final until it has been confirmed by the Local Government.

(*2*) At any time before an assessment is so confirmed the Commissioner or Financial Commissioner may modify the assessment of any estate in the district or tahsil.

(*3*) The Local Government shall, when confirming an assessment under sub-section (*1*), fix the period for which the assessment is to be in force.

Assessment to remain in force till new assessment takes effect.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under sub-section (*3*) of the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

Refusal to be liable for assessment and consequences thereof.

55. (*1*) At any time within ninety days from the date of the announcement of an assessment the landowner or, where there are more landowners than one, any of them who would be individually or collectively liable for more than half the sum assessed may give notice to the Revenue-officer of refusal to be liable for the assessment.

(*2*) When the Revenue-officer receives a notice under sub-section (*1*), the Collector may take possession of the estate and deal with it, as nearly as may be, as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(*3*) While the estate is in the possession of the Collector, the landowner or landowners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent. of the net income realized by the Government from the estate.

Distribution of the assessment of an estate over the holdings comprised therein.

56. (*1*) If the assessment announced under section 51 is in whole or in part a fixed assessment of an estate for a term of years, the Revenue-officer shall, before the date on which the first instalment thereof becomes payable, make an order distributing it over the several holdings comprised in the estate and make and publish a record of the distribution.

(*2*) The Collector may for sufficient reason make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(*3*) If the assessment announced under section 51 is in the form of rates chargeable according to the results of each year or harvest, a Revenue-officer shall from year to year or from harvest to harvest, as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land-revenue falls due, a record of the amount payable in respect of each holding.

[a](*4*) The Financial Commissioner may make rules for the guidance of Revenue-officers in making, publishing and revising records under this section.

Application for amendment of the distribution of an assessment.

57. (*1*) Any person affected by a record made under sub-section (*1*) or sub-section (*3*) of the last foregoing section, or by the revision of a record under sub-section (*2*) of that section, may, within thirty days from the date of the publication of the record, present a petition to the Revenue-officer for a re-consideration of the record so far as it affects him.

---

[a] For rules under s. 56 (*4*), see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 53.

(*2*) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Appeals from orders under sections 52 and 57.

58. An appeal from an order under the last foregoing section or section 52 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner.

Special Assessments.

Special assessments.

59. (*1*) Special assessments may be made by Revenue-officers in the following cases, namely :—

(*a*) when estates are formed under the next following section;

(*b*) when land-revenue which has been released or assigned is resumed;

(*c*) when waste-lands are sold, leased or granted by the Government;

(*d*) when the assessment of any land has been annulled or the landowner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired;

(*e*) when assessments of land-revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause;

(*f*) when revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, has not been included in an assessment made under the foregoing provisions of this Chapter.

[a](*2*) The Financial Commissioner may make rules for the guidance of Revenue-officers in making special assessments, and may confirm such assessments.

(*3*) The foregoing provisions of this Chapter with respect to general assessments shall, subject to such modifications thereof as the Financial Commissioner may prescribe by rules under the last foregoing sub-section, regulate the procedure of Revenue-officers making special assessments.

Formation of waste-land into separate estates.

60. (*1*) When, in the opinion of the Collector or of an officer making a general re-assessment of land-revenue under the foregoing provisions of this Chapter, the waste-land belonging to or adjoining an estate is so extensive as to exceed the requirements of the owners of the estate with reference to pasturage or other useful purpose, the Collector or officer may at any time, with the previous sanction of the Financial Commissioner, make a separate assessment of the waste-land which he considers to be so in excess, and offer that land at that assessment, for such term and on such conditions as he thinks fit, to the owners of the estate to which it belongs, and, if they refuse the offer, to the owners of any estate which the land adjoins, and, if they also refuse the offer, to any other person.

[a] For rules under s. 59 (*2*), see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 53.

(*2*) When the owners of the estate to which the waste-land belongs refuse the offer, the Collector shall assign to them an annual allowance not less than five and not more than ten per cent. of the net income realized by the Government from the land.

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

Security for payment of land-revenue.

61. (*1*) In the case of every estate, the entire estate and the landowner or, if there are more than one, the landowners jointly and severally shall be liable for the land-revenue for the time being assessed on the estate:

Provided that—

(*a*) the Local Government, with the previous sanction of the Governor General in Council, may by notification declare that in any estate a holding or its owner shall not be liable for any part of the land-revenue for the time being assessed on the estate except that part which is payable in respect of the holding; and

[a](*b*) when there are superior and inferior landowners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior landowners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

(*2*) A notification under proviso (*a*) to sub-section (*1*) may have reference to any single estate or to any class of estates or estates generally in any local area.

Further security for payment of land-revenue.

62. (*1*) The land-revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof.

(*2*) Without the previous consent of the Collector, the rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land-revenue chargeable against the rents, profits or produce, and any arrear of land-revenue due in respect of the estate or holding, have been paid.

Orders to regulate payment of land-revenue.

[a]**63.** (*1*) Notwithstanding anything in any record-of-rights, the Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which land-revenue is to be paid.

(*2*) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and places and in the manner, by, at and in which it is payable at the commencement of this Act.

Rules to regulate collection, remission and suspension of land-revenue

[a]**64.** (*1*) The Financial Commissioner may make rules consistent with this Act to regulate the collection, remission and suspension of land-revenue, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee.

[a] For rules of Financial Commissioner under ss. 61, 63 and 64, see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 53.

(*2*) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe.

(*3*) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorizing the institution of the suit.

Costs recoverable as part of arrear.

65. The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued.

Certified account to be evidence as to arrear.

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the defaulter.

Processes for recovery of arrears.

67. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely :—

(*a*) by service of a writ of demand on the defaulter;

(*b*) by arrest and detention of his person;

(*c*) by distress and sale of his moveable property and uncut or ungathered crops;

(*d*) by transfer of the holding in respect of which the arrear is due;

(*e*) by attachment of the estate or holding in respect of which the arrear is due;

(*f*) by annulment of the assessment of that estate or holding;

(*g*) by sale of that estate or holding;

(*h*) by proceedings against other immoveable property of the defaulter.

Writ of demand.

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

Arrest and detention of defaulter.

69. (*1*) At any time after an arrear of land-revenue has accrued a Revenue-officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

(*2*) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(*3*) When the defaulter is brought before the Collector, the Collector may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Collector thinks fit.

(*4*) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot.

Distress and sale of move-

70. (*1*) At any time after an arrear of land-revenue has accrued, the

moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer. able property and crops.

(*2*) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act, 1887: XVI of 1887.

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed-grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

71. (*1*) At any time after an arrear of land-revenue has accrued on a holding, the Collector may transfer the holding to any person being a landowner of the estate in which the holding is situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe. Transfer of holding.

(*2*) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer.

(*3*) The Collector shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(*4*) A transfer under this section shall not affect the joint and several liability of the landowners of the estate in which it is enforced.

(*5*) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(*6*) When the transfer was for a term, the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the Government or the transferee for any arrear of land-revenue or rates and cesses due in respect thereof.

72. (*1*) At any time after an arrear of land-revenue has accrued, the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose. Attachment of estate or holding.

(*2*) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to

manage the land and to receive all rents and profits accruing therefrom to the exclusion of the defaulter until the arrear has been satisfied, or until the Collector restores the land to the defaulter.

(*3*) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in discharge of the arrear.

(*4*) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment, but, if the arrear is sooner discharged, the land shall be released and the surplus receipts, if any, made over to the landowner.

Annulment of assessment of estate or holding.

73. (*1*) When an arrear of land-revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(*2*) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

(*a*) while under attachment under the last foregoing section, or

(*b*) while under the charge of the Court of Wards.

(*3*) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(*4*) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil, and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the landowner.

(*5*) The landowner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(*6*) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(*7*) When the assessment of a holding is annulled, the joint responsibility of the other landowners of the estate for the land-revenue of that holding be-

BENGAL SECRETARIAT LIBRARY

coming due after the annulment shall be in abeyance until a new assessment takes effect.

(*8*) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

Proclamation of attachment or annulment of assessment, and consequences of the proclamation.

74. (*1*) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

(*2*) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer.

(*3*) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer.

Sale of estate or holding.

75. When an arrear of land-revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the Financial Commissioner, may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold for the recovery of—

(*a*) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (*a*), (*b*), (*c*) or (*d*); or

IV of 1872.

(*b*) any arrear which has accrued while the land was under attachment under section 72 of this Act; or

(*c*) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 73, after either an annulment of assessment or a refusal to be liable therefor.

Effect of sale on incumbrances.

76. (*1*) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(*2*) Nothing in sub-section (*1*) shall affect—

(*a*) a tenant's right of occupancy, unless the right was created by the defaulter himself, or

(*b*) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship or burial-ground, so long as the land continues to be used for the purpose specified in the lease, or

(*c*) any incumbrance, grant, contract or right of occupancy specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

Proceedings against other immoveable property of defaulter.

77. (*1*) If the arrear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due :

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(*2*) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(*3*) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(*4*) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(*5*) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

Remedies open to person denying his liability for an arrear.

78. (*1*) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

(*2*) A suit under sub-section (*1*) must be instituted in a Court having

jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate.

Procedure in Sales.

Proclamation of sale.

79. (*1*) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale, specifying—

(*a*) the date, time and place of the sale;

(*b*) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon or payable in respect thereof;

(*c*) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances, grants, contracts and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*);

(*d*) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof, any incumbrance, grant or contract to which the property is known to be liable; and

(*e*) the amount for the recovery of which the sale is ordered.

(*2*) The proclamation shall also state that any person intending to claim a right of pre-emption must, on pain of forfeiting the right, give notice of his intention to the Collector on an office-day before that fixed for the sale.

(*3*) The place of sale specified under clause (*a*) of sub-section (*1*) must be either the office of the Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold.

Indemnity to Revenue-officer with respect to contents of proclamation.

80. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

Publication of proclamation.

81. (*1*) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tahsildár of the tahsil in which the property to be sold is situate.

(*2*) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildár, a copy thereof shall be posted in the office of the Collector.

(*3*) The proclamation shall be further published in manner prescribed in section 22 and in such other manner as the Collector thinks expedient.

Time and conduct of sale.

82. (*1*) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was posted in the office of the Collector.

(*2*) The sale shall be by public auction, and shall be conducted either by the Collector in person or by a Revenue-officer specially appointed by him in this behalf.

Power to postpone sale.

83. The Collector may from time to time postpone the sale.

Stay of sale.

84. If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed.

Payment of deposit by highest bidder.

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty-five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption.

Consequences of failure to pay deposit.

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any, which may happen on the re-sale, may be recovered from him by the Collector as if the same were an arrear of land-revenue.

Exercise of right of pre-emption.

87. (*1*) At any time before the close of the day on which the sale takes place any person who has given notice of his intention to claim a right of pre-emption under section 79, sub-section (*2*), may, on payment to the officer conducting the sale of a deposit of twenty-five per centum on the highest bid made at the sale, claim to take the property at that bid.

(*2*) If the right is not disputed, he shall be declared to be the purchaser.

(*3*) If the right is disputed, the Collector shall inquire into and decide the dispute and declare the purchaser, and his decision and declaration shall be final.

Time for payment in full.

88. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared.

Procedure in default of payment.

89. In default of payment of the full amount of the purchase-money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector, with the previous sanction of the Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no claim to the property or to any part of the sum for which it may subsequently be sold.

Report of sale to Commissioner.

90. Every sale of immoveable property under this Chapter shall be reported by the Collector to the Commissioner.

Application to set aside sale.

91. (*1*) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

(*2*) But a sale shall not be set aside on that ground unless the applicant

proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

Order confirming or setting aside sale.

92. (*1*) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale, and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(*2*) An order made under this section shall be final.

Refund of purchase-money on setting aside of sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Proclamation after postponement or on re-sale.

94. A sale made after a postponement under section 83, and a re-sale consequent on a purchaser's default under section 89 or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

On confirmation of sale, possession and certificate to be granted to purchaser.

95. (*1*) After a sale has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(*2*) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the incumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 76, sub-section (2), clause (*c*).

(*3*) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(*4*) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs.

(*5*) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale and be liable for all instalments of land-revenue and rates and cesses falling due in respect thereof after that date.

Proceeds of sale.

96. (*1*) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue, or of sums recoverable as arrears of land-revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(*2*) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

(*3*) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (*1*), the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorized by law.

CHAPTER VII.

Recovery of other Demands by Revenue-officers.

Recovery of certain arrears through Revenue-officer instead of by suit.

[a]**97.** When a village-officer required by rules under section 28 to collect any land-revenue or sum recoverable as an arrear of land-revenue satisfies a Revenue-officer that the revenue or sum has fallen due and has not been paid to him, the Revenue-officer may, subject to any rules which the Financial Commissioner may make in this behalf, recover it as if it were an arrear of land-revenue.

Other sums recoverable as arrears of land-revenue.

98. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely :—

(*a*) fees, fines, costs and other charges, including the village-officers' cess payable under this Act;

(*b*) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42 in cases in which the revenue so due has not been included in the assessment of an estate;

(*c*) fees payable to district boards or local boards under section 33 of the Punjab District Boards Act, 1883, for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act; XX of 1883.

(*d*) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force; and

(*e*) sums payable to the Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land-revenue.

Application of Chapter VI to sums recoverable under this Chapter.

99. (*1*) The provisions of Chapter VI shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land-revenue and the person from whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear.

---

[a] For rules under s. 97, see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, page 53.

(*2*) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land-revenue due in respect of the land charged therewith, the provisions of section 77 shall apply under sub-section (*1*) to the recovery thereof.

CHAPTER VIII.

SURVEYS AND BOUNDARIES.

Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey-marks.

*100. (*1*) The Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(*2*) Rules under this section may prescribe, among other matters, the form of survey-marks and the material to be used in their construction.

Power of Revenue-officers to define boundaries.

101. (*1*) A Revenue-officer may, for the purpose of framing any record or making any assessment under this Act, or on the application of any person interested, define the limits of any estate, or of any holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired.

(*2*) In defining the limits of any land under sub-section (*1*), the Revenue-officer may cause survey-marks to be erected on any boundary already determined by, or by order of, any Court, Revenue-officer or Forest-settlement-officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

Cost of erection and repair of survey-marks.

102. Subject to any rules which the Financial Commissioner may make in this behalf, survey-marks shall be erected and kept in repair by or at the cost of the persons interested in the land for the indication of the limits of which they are required:

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government or be paid out of the proceeds of the village-officers' cess.

Recovery of cost incurred by the Government.

103. (*1*) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired.

(*2*) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just, and certify the same to the Collector.

(*3*) The Collector may recover the cost as if it were an arrear of land-revenue.

---

* For rules under s. 100, see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, page 53.

Power of Revenue-officers to enter on land for purposes of survey and demarcation.

104. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

Surveys for purpose of preparation of records.

105. (*1*) When any land is being surveyed in pursuance of rules under section 46, clause (*c*), any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

(*2*) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to ten rupees.

Provision of flagholders and chainmen for those surveys.

106. (*1*) For the purposes of the survey of any land in pursuance of rules under section 46, clause (*c*), the landowners shall be bound to provide fit persons to act as flagholders and chainmen.

(*2*) If the landowners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed and the cost of employing them recovered from the landowners as if it were an arrear of land-revenue.

Professional surveys.

107. (*1*) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

(*a*) the local area to be surveyed and the nature of the survey;

(*b*) the names or official designations of the officers by whom the survey is to be made; and

(*c*) the kind of survey-marks to be erected by those officers.

(*2*) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 104.

Penalty for destruction, injury or removal of survey-marks.

108. (*1*) If any person wilfully destroys or injures or without lawful authority removes a survey-mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(*2*) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code. XLV of 1860.

Report of destruction or removal of or injury to survey-marks.

109. Every village-officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

CHAPTER IX.

PARTITION.

Effect of partitions of estates and tenancies on joint liability for revenue and rent.

110. (*1*) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land or of the landowners thereof for the revenue payable in respect of the land, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(*2*) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

Application for partition.

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue-officer for partition of his share in the land or tenancy, as the case may be, if—

(*a*) at the date of the application the share is recorded under Chapter IV as belonging to him, or

(*b*) his right to the share has been established by a decree which is still subsisting at that date, or

(*c*) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof.

Restrictions and limitations on partition.

112. Notwithstanding anything in the last foregoing section—

(*1*) places of worship and burial-grounds held in common before partition shall continue to be so held after partition, unless the parties otherwise agree among themselves and record their agreement and file it with the Revenue-officer;

(*2*) partition of any of the following properties, namely :—

(*a*) any embankment, watercourse, well or tank, and any land on which the supply of water to any such work may depend,

(*b*) any grazing-ground, and

(*c*) any land which is occupied as the site of a town or village and is assessed to land-revenue,

may be refused if in the opinion of the Revenue-officer the partition of such property is likely to cause inconvenience to the co-sharers or other persons directly or indirectly interested therein or to diminish the utility thereof to those persons;

(*3*) the fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy; and

(*4*) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof.

Notice of application for partition.

113. The Revenue-officer, on receiving the application under section 111, shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and—

(*a*) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the landlord also; and,

(*b*) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

Addition of parties to application.

114. On the day fixed for the hearing, or on any day to which the hearing may be adjourned, the Revenue-officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition.

Absolute disallowance of partition.

115. After examining such of the co-sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

Procedure on admission of application.

116. If the Revenue-officer does not refuse the application under the last-foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested, distinguishing between—

(*a*) questions as to title in the property of which partition is sought; and

(*b*) questions as to the property to be divided, or the mode of making the partition.

Disposal of questions as to title in property to be divided.

117. (*1*) When there is a question as to title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine the question as though he were such a Court.

(*2*) Where the Revenue-officer himself proceeds to determine the question, the following rules shall apply, namely :—

(*a*) If the question is one over which a Revenue Court has jurisdiction, the Revenue-officer shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887. XVI of 1887.

(*b*) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein.

(*c*) An appeal shall lie from the decree of the Revenue-officer under clause (*b*) as though that decree were a decree of a District Judge in an original suit.

(*d*) Upon such an appeal being made, the Divisional Court or Chief Court, as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal.

(*e*) From the appellate decree of a Divisional Court upon such an appeal a further appeal shall lie to the Chief Court if such a further appeal is allowed by the law for the time being in force.

Disposal of other questions.

118. (*1*) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

(*2*) An appeal may be preferred to the Commissioner from an order under sub-section (*1*) within fifteen days from the date thereof, and, when such an appeal is preferred and the institution thereof has been certified to the Revenue-officer by the Commissioner, the Revenue-officer shall stay proceedings pending the disposal of the appeal.

(*3*) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his shares, he shall be permitted to withdraw therefrom on such terms as the Revenue-officer thinks fit.

(*4*) When an applicant withdraws under the last foregoing sub-section, the Revenue-officer may, where the other applicants, if any, desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

Administration of property excluded from partition.

119. When any such property as is referred to in section 112, clause (*2*), is excluded from partition, the Revenue-officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are to be borne by and divided among those persons or any of them.

Distribution of revenue and rent after partition.

120. (*1*) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition.

(*2*) The determination of the Revenue-officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56, sub-section (*1*).

(*3*) Where new estates have been created at a partition and the land-revenue has been fraudulently or erroneously distributed among them, the Local

Government may, within twelve years from the time of discovery of the fraud or error, order a new distribution of the land-revenue among the several estates on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Instrument of partition.

121. When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

Delivery of possession of property allotted on partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immoveable property.

Affirmation of partition privately effected.

123. (*1*) In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue-officer for an order affirming the partition.

(*2*) On receiving the application, the Revenue-officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 119, 120, 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter.

Power to make rules as to costs of partitions.

124. The Financial Commissioner may make rules for determining the costs of partitions under this Chapter and the mode in which such costs are to be apportioned.

Re-distribution of land according to custom.

125. When by established custom any land in an estate is subject to periodical re-distribution, a Revenue-officer may, on the application of any of the landowners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a Revenue-officer in proceedings for partition.

Revenue-officers empowered to act under this Chapter.

126. The Revenue-officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade.

CHAPTER X.

ARBITRATION.

Power to refer to arbitration.

127. (*1*) Any Revenue-officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Act.

(*2*) A Collector or any Assistant Collector of the first grade may, without

the consent of the parties, refer to arbitration any dispute before him with respect to—

(*a*) any matter of which an entry is to be made in any record or register under Chapter IV;

(*b*) any matter relating to the distribution of an assessment under section 56;

(*c*) the limits of any estate or of any holding, field or other portion of an estate; or

(*d*) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. (*1*) In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(*2*) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(*3*) If from any cause arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

Nomination of arbitrators.

129. (*1*) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator.

(*2*) The Revenue-officer may, for reasons to be recorded by him, make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to be specified in the order.

(*3*) An order under the last foregoing sub-section shall be final.

Substitution of arbitrators by parties.

130. If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead.

Nomination and substitution of arbitrators by Revenue-officers.

131. In any of the following cases, namely:—

(*a*) if either of the parties fails to nominate an arbitrator under sub-section (*1*) of section 129 within the period fixed in the order of reference, or

(*b*) if the nomination of an arbitrator has been disallowed under sub-section (*2*) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section, or, having been so nominated, his nomination is also disallowed, or

(*c*) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or

(*d*) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator.

Process for appearance before arbitrators.

132. (*1*) The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself.

(*2*) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (*1*), either in person or by agent, as the arbitrators may require.

(*3*) The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as may be specified in the process.

Award of arbitrators and presentation thereof.

133. (*1*) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor, and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent.

(*2*) The arbitrators shall present the award to the Revenue-officer in person unless that officer permits them to present it by agent.

Procedure on presentation of award.

134. (*1*) When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(*2*) Where a date has been fixed for the consideration of an award, the Revenue-officer shall, on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(*3*) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

Effect of award.

135. (*1*) The Revenue-officer may accept, modify or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration.

(*2*) An appeal shall lie from the decision as if arbitrators had not been appointed.

CHAPTER XI.

Special Jurisdiction with respect to Land.

Power to invest officers making records-of-

136. (*1*) The Local Government may, by order published in the official Gazette, invest any Revenue-officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 32 or making a

general re-assessment of land-revenue in any local area in pursuance of a notification under section 49, or any Revenue-officer to whose control that officer is subject, with all or any of the powers of any Court constituted under the Punjab Courts Act, 1884, for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area.

XVIII of 1884.

rights or general re-assessments with powers of Civil Courts.

(*2*) The Local Government may cancel an order under sub-section (*1*) wholly or in part.

(*3*) While an order or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(*4*) Any cases pending before that officer under the order or a subsisting part of the order at the time of the cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unless the Local Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

137. (*1*) The Local Government may by notification direct that the provisions of this Act with respect to the superintendence and control over Revenue-officers shall, subject to any modification of those provisions which the Local Government thinks fit, apply to any Revenue-officer, except the Financial Commissioner, who has been invested with the powers of a Civil Court of any of the classes specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 17 of the Punjab Courts Act, 1884, and that appeals shall lie from his decrees and orders to, and his decrees and orders be subject to revision by, a Revenue-officer invested under the last foregoing section with the powers of a Court which would be competent under the Punjab Courts Act, 1884, to hear appeals from, or revise, such decrees and orders if they had been made by a Court with the powers of which the Revenue-officer who made them has been invested.

Control over such officers and appeals from and revision of their decrees and orders.

(*2*) In the absence of any such notification, a Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the Punjab Courts Act, 1884.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue-deposits.

138. (*1*) In either of the following cases, namely:—

(*a*) when a headman or other landowner, or an assignee of land-revenue, to whom any sum other than rent is payable on account of a liability under this Act, refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable,

Power to deposit certain sums other than rent.

(*b*) when the person by whom any such sum is payable is in doubt as to the headman or other landowner, or the assignee of land-revenue, entitled to receive it,

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(*2*) When a deposit has been so received, the liability of the depositor to the headman or other landowner, or the assignee of land-revenue, for the amount thereof shall be discharged.

Deposit on account of a payment due to Government.

139. If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly.

Procedure in case of other deposits.

140. (*1*) A Revenue-officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*2*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Execution of Orders of Civil and Criminal Courts by Revenue-officers.

Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue-officer.

141. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue-officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith made by the Financial Commissioner with the concurrence of the Chief Court and the previous sanction of the Local Government.

Attachment of assigned land-revenue.

142. (*1*) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(*2*) A payment to the Collector under sub-section (*1*) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

143. (*1*) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering or storing it or doing any other act necessary for its preservation. Preservation of attached produce.

(*2*) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(*3*) When sale of produce follows on its attachment, the purchaser shall be entitled, by himself or by any person appointed by him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

Division of Produce.

144. In either of the following cases, namely :— Division of produce.

(*a*) where land-revenue is paid by division or appraisement of the produce,

(*b*) where a superior and an inferior landowner, or two or more shareholders in a holding or tenancy, are jointly interested in any produce, and either or any of the landowners or tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing or appraising the produce,

XVI of 1887. the provisions of the Punjab Tenancy Act, 1887, with respect to the division or appraisement of produce shall apply so far as they can be made applicable.

Miscellaneous.

[a]**145.** (*1*) At any of the following times, namely :— Village-cesses.

(*a*) when the record-of-rights is being made or specially revised for an estate,

(*b*) when the local area in which an estate is situate is being generally re-assessed and before the assessment has been confirmed,

(*c*) at any other time on an order made with respect to any estate by the Local Government with the previous sanction of the Governor General in Council,

a Revenue-officer shall prepare a list of village-cesses, if any, levied in the estate which have been generally or specially approved by the Local Government, or the title to which has before the passing of this Act been judicially established.

(*2*) When a list has been prepared for an estate under sub-section (*1*), a village-cess not comprised therein shall not be recoverable by suit in any Court.

(*3*) The Local Government may impose on the collection of any village-cess comprised in the list such conditions as to police or other establishments

[a] For rules of Financial Commissioner under s. 145, see Notification No. 76, *Punjab Gazette* Extraordinary, 1st March, 1888, p. 53.

connected with the village, market or fair in or on account of which the cess is levied, as it thinks fit.

(*4*) The Governor General in Council may, on a reference from the Local Government, declare whether any cess, contribution or due levied in an estate is or is not a village-cess.

(*5*) A declaration of the Governor General in Council under the last foregoing sub-section shall be conclusive, and shall not be liable to be questioned in any Court.

Superior landowners' dues.

146. Where a superior landowner is entitled to receive in respect of any land from an inferior landowner dues in kind or in cash of fluctuating quantity or amount, the Collector may—

(*a*) on the application of both landowners, or,

(*b*) with the previous sanction of the Local Government, on the application of either of them,

commute those dues into a fixed percentage of the land-revenue payable by the inferior landowner in respect of the land.

Substitution of service for payment of land-revenue.

147. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, authorize the remission of land-revenue in whole or in part in consideration of the person liable therefor undertaking to render in lieu thereof such public service as may be specified in an agreement to be approved by the Local Government and executed by that person.

(*2*) The Local Government may, with the like sanction, cancel any remission authorized, and agreement made, under sub-section (*1*).

(*3*) If a landowner bound by an agreement under that sub-section to render public service in lieu of paying land-revenue fails to render the service to the satisfaction of the Collector, the Collector may determine the portion of the land-revenue remitted which is represented by the service in respect of which the landowner is in default, and, with the previous sanction of the Financial Commissioner, recover that portion as if it were an arrear of land-revenue due in respect of the land, for the land-revenue whereof the service was substituted.

Recovery of cost of assessing assigned land-revenue.

148. (*1*) When land of which the land-revenue has been assigned in whole or in part is re-assessed, the assignee shall be liable to pay such a share of the cost of making the re-assessment as the Financial Commissioner may determine to be just.

(*2*) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

Penalty for failure to attend within limits of estate in obedience to order of Revenue-officer.

149. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to fifty rupees.

Prevention of encroach-

150. (*1*) Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue-

officer may, on the application of any other co-sharer, eject the encroaching co-sharer from the land and, by order proclaimed in manner mentioned in section 22, forbid repetition of the encroachment. ment on common lands.

(*2*) The proceedings of the Revenue-officer under sub-section (*1*) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

151. (*1*) Any record or paper which a village-officer is required by law, or by any rule under this Act, to prepare or keep shall be deemed to be the property of the Government. Papers kept by village-officers to be deemed public documents.

(*2*) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect. I of 1872.

152. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit; Costs.

(*2*) But, if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

153. In the computation of the period for an appeal from, or an application for the review of, an order under this Act the limitation therefor shall be governed by the Indian Limitation Act, 1877. XV of 1877. Computation of periods limited for appeals and applications for review.

154. (*1*) A Revenue-officer, or a person employed in a revenue-office, shall not— Restriction on Revenue-officers bidding at auctions or trading.

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer or Revenue Court in the district in which he is employed has ordered to be sold, or,

(*b*) in contravention of any rules made by the Local Government in this behalf, engage in trade in that district.

(*2*) Nothing in sub-section (*1*) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, or other law. VI of 1882.

155. (*1*) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act, and any other enactment for the time being in force— Power to make rules.

[a](*a*) fixing the number and amount of the instalments, and the times and places and the manner, by, at and in which any sum other than rent or land-revenue which is payable under this Act or of which a record has been made thereunder is to be paid;

(*b*) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers;

---

[a] For rules under s. 155 (*1*) (*a*), see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 53.

(*c*) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons;

[a](*d*) regulating the procedure in cases where persons are entitled to inspect records of revenue-offices, or records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices or submitted to any authority;

[b](*f*) declaring what shall be the language of any of those offices, and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English; and

[b](*g*) generally for carrying out the purposes of this Act.

(*2*) Until rules are made under clauses (*a*) and (*b*) of sub-section (*1*) the sums therein referred to shall be payable by the instalments, at the times and places, and in the manner by, at and in which they are now payable.

(*3*) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government, and rules under clause (*c*) of sub-section (*1*) shall not take effect until they have also been confirmed by the Governor General in Council.

Rules to be made after previous publication.

156. The power to make any rules under this Act is subject to the control of the Governor General in Council, and to the condition of the rules being made after previous publication.[c]

Powers exerciseable by the Financial Commissioner from time to time.

157. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

158. Except as otherwise provided by this Act—

(*1*) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Act; and in particular—

(*2*) a Civil Court shall not exercise jurisdiction over any of the following matters, namely:—

(i) any question as to the limits of any land which has been defined

[a] For rules under s. 155 (*1*) (*d*), see Notifications Nos. 74 and 79, *Punjab Gazette*, Extraordinary, 1st March, 1888, pp. 3 and 86, respectively.

[b] For rules under s. 155 (*1*) (*f*) and (*g*), see Notification No. 76, *Punjab Gazette*, Extraordinary, 1st March, 1888, p. 53.

[c] For provisions concerning making of rules after "previous publication" see Act I of 1887, s. 6.

by a Revenue-officer as land to which this Act does or does not apply;

(ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;

(iii) any claim to the office of kánúngo, zaildár, inamdár or village-officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof;

(iv) any notification directing the making or revision of a record-of-rights;

(v) the framing of a record-of-rights or annual record, or the preparation, signing or attestation of any of the documents included in such a record;

(vi) the correction of any entry in a record-of-rights, annual record or register of mutations;

(vii) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor General in Council;

(viii) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;

(ix) the amount of land-revenue to be assessed on any estate or to be paid in respect of any holding under this Act;

(x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;

(xi) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;

(xii) the formation of an estate out of waste-land;

(xiii) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;

(xiv) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery, of land-revenue, or any sum recoverable as an arrear of land-revenue;

(xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;

(xvi) the amount of, or the liability of any person to pay, any fees, fines, costs or other charges imposed under this Act;

(xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, not being a question as to title in any of the property of which partition is sought;

(xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy, or as to the distribution of land subject by established custom to periodical re-distribution, or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re-distribution of land, or as to the distribution of rent on the partition of a tenancy;

(xix) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue-officer under this Act;

(xx) any question relating to the preparation of a list of village-cesses or the imposition by the Local Government of conditions on the collection of such cesses;

(xxi) any proceeding under this Act for the commutation of the dues of a superior landowner;

(xxii) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue; or

(xxiii) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assessing such revenue, or arising out of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for or redeemed to pay on the land-revenue for which he would but for such release, composition or redemption be liable, such a percentage for the remuneration of a zaildár, inámdár or village-officer as may be prescribed by rules for the time being in force under this Act.

THE SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act XXI of 1836 .	Creation of new Zilas . .	So much as has not been repealed.

THE SCHEDULE—*continued.*

ENACTMENTS REPEALED—*continued.*

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act VI of 1867 . .	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his government.	The whole.
Act VII of 1870 .	The Court-fees Act, 1870 . .	In section 20, clause (*i*), the words "and Revenue," and the whole of section 23.
Act XXXIII of 1871 .	The Punjab Land-revenue Act, 1871.	The whole.
Act IV of 1872 . .	The Punjab Laws Act, 1872 .	Section 21.
Act XVIII of 1884 .	The Punjab Courts Act, 1884 .	Chapter VI.
Regulation I of 1872 .	The Punjab Frontier Regulation, 1872.	Rules 26 to 46 (both inclusive), comprising sections G, H, I and K of the Hazára Settlement Rules.

PART III:

REGULATIONS MADE UNDER THE STATUTE 33 VICTORIA, CAP. 3.

REGULATION No. I OF 1872.

Punjab Frontier Regulation, 1872.

Published in the Gazette of India of 6th January, 1872, p. 5, and in the Punjab Gazette of 11th January, 1872, p. 20.

The following Regulations for the peace and government of the districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán and Dera Gházi Khán having been proposed by His Honour the Lieutenant-Governor, have been considered and approved by His Excellency the Viceroy and Governor General in Council, and are now published for general information, as having the force of law under 33 Victoria, chapter 3, section 1 :—

1—5. *Hostile tribes. Walled enclosures. Communities harbouring criminals. Persons having blood feuds. Villages on the border.* [*Rep. by Reg. IV of 1887, s. 2 and Sch.*]

6. *Trial of criminals by elders.* [*Rep. by Reg. IV of 1873, s. 1.*]

7—12. *Non-application of s. 445B of Act VIII of 1869. Adultery. Amendment of s. 209 of Act VIII of 1869. Penalties. Registers of cases. Power to extend Police Act, V of 1861.* [*Rep. by Reg. IV of 1887, s. 2 and Sch.*]

Courts and officers having jurisdiction in, and law applicable to, the Hazára District.

13. So far as regards the Hazára District, Act III of 1870 (the Agror Valley Act) is repealed; such parts of the district as have been dealt with under the Act are restored to the jurisdiction of the ordinary Courts of Civil and Criminal Judicature, and to the control of the offices of revenue constituted by the Rules, Regulations and Acts in force in the territories under the control of the Lieutenant-Governor of the Punjab, and to the law prescribed for the said Courts and offices by the Rules, Regulations and Acts aforesaid; and all Rules heretofore prescribed for the Hazára District, or any part thereof, either under Ordinance of the 4th day of October, 1869, or under the Agror

---

* The provisions of s. 1 of the Statute 33 Vic., c. 3, were by Resolution of the Secretary of State for India in Council, dated 6th October, 1870, declared applicable to the Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán, Dera Gházi Khán and the Pargana of Spití—*see* Notification No. 2101P., *Gazette of India*, 3rd December, 1870, Part I, p. 799.

Valley Act, are hereby repealed, with the exception of the following, which are hereby declared to be in force in the form below stated :—

LAND-REVENUE.

1.—Notification No. 636, dated 4th October, 1870.

Suits of the class described in section 23 of Act XIX of 1865[a] (the Punjab Courts Act) shall, during the progress of settlement-operations in the Hazára District, be heard in the Settlement Courts of the Hazára District.

HAZÁRA SETTLEMENT RULES.

A.—RULES FOR THE SETTLEMENT OF PROPRIETARY RIGHTS.

1. The Settlement-officer shall cause to be prepared for each village a statement showing for each class of village-occupants the origin, nature and duration of their connection with the village. The statement shall include all who have any interest in, or claim upon, land situate in the village.

After examining this statement the Settlement-officer shall declare, by an order in writing enfaced thereon, what parties are in proprietary possession of any description; and what parties are not in such possession, or only tenants. Every effort is to be made by [b]Settlement-officer to ensure the purport of this document being made thoroughly known to all parties interested.

2. Thereafter it shall be open to any one who considers himself entitled to other rights than those he is by that order awarded to present to the Settlement-officer a petition stating his claim. The claim shall be enquired into and decided in the manner provided for judicial suits.

3—5. *Power to decree restoration of rights. Rights confiscated by Government. Release of mortgages.* [*Rep. by Reg. II of 1874, s. 2.*]

6. Where a double proprietary right (superior and inferior) is found to exist in the same land, the Settlement-officer may, upon the application of either party, in lieu of awarding rent to the superior proprietor, award to him possession of a fair proportion of the village-lands, cultivated and uncultivated. Such award shall be in full satisfaction of the superior proprietor's claims: Provided that—

(i) it shall not give to the inferior proprietors any power of alienation which they did not before possess, or to their collateral heirs any right of succession which is opposed to existing custom; the prevailing usage on each point being carefully ascertained and recorded by the Settlement-officer;

---

[a] Act XIX of 1865 was repealed by Act No. XVII of 1877; the suits referred to are cases of succession or inheritance in which the claim relates "not only to land, but to land and other property not permanently attached to the land comprised in the claim."

[b] Read "the" Settlement-officer.

(ii) nor shall it deprive the superior proprietor of any right of pre-emption or reversion to which he may be otherwise fairly entitled.

7. In cases in which a co-sharer of a tribe, among whom the custom of "*waish*" (periodical re-partition of ancestral shares) prevailed before Síkh Rule, has been deprived of land by the State for public purposes, or has lost his land within British Rule by diluvion, which land previous to Síkh Rule would have been subject to the tribal "*waish*," he shall be permitted to present a claim to the Settlement-officer for an equivalent portion of shamilât-land in the same village. The Settlement-officer or other competent judicial officer subordinate to him shall thereon summon a council of the community against whose shamilât the claim is laid and investigate its truth. If the loss of any land in the manner above stated be proved, and if the claimant has no other land or insufficient land left for the support of himself and his dependents, and if the enforcement of the claim shall not be on other grounds inequitable, the investigating officer shall decree to the claimant such portion of the shamilât-land aforesaid as may appear equitable with reference to the loss of the claimant and the extent of the village-shamilât: Provided that, in the case of land taken by the State, no order for the making over of shamilât-land to the claimant shall be passed until the claimant deposits the consideration-money which he received from the State; and the consideration-money thus deposited shall be made over to the community in lieu of the shamilât-land taken.

8. The Settlement-officer shall ascertain for each proprietary community the custom concerning pre-emption, and frame with their assistance suitable rules for its enforcement hereafter.

B.—Rules for ascertaining the Customs regarding Inheritance of Rights in the Soil, other than Assignments of Revenue.

9. The Settlement-officer shall ascertain for each tract, tribe or village (as may be most convenient) the customs that regulate the devolution of all rights in the soil, other than assignments of land-revenue. And, in cases in which such customs may appear on enquiry to be doubtful, he shall, in communication with the chief representatives of the said tract, tribe or village, and with the sanction of the Commissioner, declare for future observance such custom as may be most consonant with the feeling of the parties concerned. Should any party consider himself aggrieved by the record thus made, he shall have a right of appeal to [a]Financial Commissioner.

C.—Rules for ascertaining and defining the Rights and Liabilities of Tenants.

D.—Re-adjustment of Rents.

10—17. [*Rep. by Reg. III of 1873, s. 4.*]

---

[a] Read "the" Financial Commissioner.

E.—RULES FOR REGULATING THE SUCCESSION TO REVENUE-ASSIGNMENTS.

18. The Settlement-officer shall ascertain for each class of revenue-assignments granted for more than one life, or for the period of settlement, or for each of such cases where necessary, what rule is best calculated to secure to Government the attainment of the object for which the grant was given. The result of his enquiries shall be submitted to the Commissioner, who shall pass final orders as to the rule to be hereafter followed, reporting the same through the Financial Commissioner for the sanction of Government.

19. All cases in which orders of succession contrary to the orders to be laid down under rule 18 have been passed shall be reported by the Settlement-officer to the Commissioner, who is hereby empowered to revise the previous orders in the spirit of rule 18, or in such modified way as the peculiar circumstances of such cases may call for.

F.—INVESTIGATION OF SETTLEMENT-INÁMS AND UNREPORTED REVENUE-ASSIGNMENTS.

20. The Settlement-officer shall investigate the tenure of all settlement-ináms and unreported revenue-assignments.

21. He shall have authority to confirm for life, or for the period of the new settlement, all petty ináms to village-institutions; also small ináms held by the individuals selected to be lambardárs; but all other unreported ináms shall be reported for the orders of the Commissioner.

22. The Commissioner may confirm for the period of the settlement the ináms so reported to him, or he may resume them.

23. The Commissioner may create new small zamíndárí ináms to be held for life or for the period of settlement, not exceeding the amount of those resumed.

24. The case of any important inám shall be reported to Government for disposal under the Jágír Rules.

25. The Settlement-officer shall draw up and submit to the Commissioner, for sanction of Government, rules to regulate the succession to these ináms in cases in which the holder may die during the currency of the settlement; and such rules when sanctioned shall have the force of law.

G.—RULES FOR REVISING THE APPOINTMENT OF LAMBARDÁRS.

H.—RULES FOR SECURING A SYSTEM OF VILLAGE-RECORD.

I.—RULES FOR THE FUTURE ANNUAL PAYMENT OF REVENUE.

K.—SPECIAL CESSES.

26—46. [*Rep. by Act XVII of 1887, s. 2 and Sch.*]

L.—Rules for defining Rights in Village-sites.

47. The Settlement-officer shall ascertain and record all customs affecting the ownership of the village-site; and the settlement-record shall include a list of the occupants of that site, with such detail as may be practicable; this list shall also specify the rights and interests connected with each tenement and plot so far as they can be ascertained.

48. The customs affecting the village-site thus to be ascertained shall have the same force as the rest of the settlement-record; but the individual entries in the list of tenements shall only be *primâ facie* evidence of the facts therein stated.

M.—Stamps and Fees.

49—53. [*Rep. by Reg. II of 1874, s. 5.*]

N.—Powers of Officers.

54. The judicial and executive powers of the Settlement Judicial Officers shall remain as at present, except as hereinafter provided.

55. All original orders passed by the Assistant Settlement-officer, Superintendents or Deputy Superintendents, whether in judicial or revenue proceedings, shall be appealable to the Settlement-officer; and he may refer to the Assistant Settlement-officer for disposal any appeals from the orders of the Superintendents and Deputy Superintendents.

56. All final orders passed by the Settlement-officer and Assistant Settlement-officer shall be appealable to the Commissioner.

57. The Superintendents and the Assistant Settlement-officer may revise any final order they may have passed with the permission of the Settlement-officer; and the Settlement-officer and Commissioner may revise any final order they may have passed at any time before the settlement is reported for the sanction of the Local Government.

58. All appeals shall be presented within two months of the order appealed against.

O.—Confirmation of the Settlement.

59. As the record-of-rights in each tract is completed, and whenever any customs have been ascertained or defined, and whenever the Settlement-officer shall have prepared any rules pursuant to these instructions, he shall take an early opportunity of submitting his proceedings to the Commissioner for confirmation.

60. Excepting as in these rules expressly otherwise provided, all records-of-rights, customs, liabilities and rules drawn up by the Settlement-officer shall, when confirmed by the Commissioner and Financial Commissioner, be considered a final settlement of all matters therein treated of; and only those matters shall be revised at ensuing settlements which relate to office-bearers and their duties, and to the amount of and method of paying the Govern-

ment revenue and cesses, and proprietary rents of any description. And no suit shall lie to enforce a right or usage or liability contrary to the settlement-record : Provided that suits may be brought after settlement to show that any given field was entered under a holding contrary to the Settlement-award in respect of it ; and, upon this plea being established, the record shall be altered so as to accord with the original award.

61. To prevent injustice occurring owing to the finality thus given to the record, the Settlement-officer shall at once issue a proclamation acquainting the people of Hazára with the preceding rule ;

also copies of these rules shall be given gratuitously to each village ;

also copies of the final entries in each part of the record shall be given to all persons concerned before it is reported to the Commissioner for confirmation ;

also the Commissioner, before confirming any part of the record, shall satisfy himself by inspection of the rough papers on which it is based, and by personal local enquiry, that it has been prepared with due regard to publicity, and that full opportunity has been given to dissatisfied persons to appeal against the conclusions arrived at by the Settlement-officer.

62. When the settlement has been concluded, the Settlement-officer shall submit a full report to the Local Government, showing the manner in which all rights and interests, public and private, connected with the settlement, have been disposed of.

63. The Local Government may, within six months of the receipt of this report, annul or vary any of the proceedings therein reported. And, if the Local Government is not fully satisfied that the precautions for securing publicity laid down in rule 61 of this section have been fully observed, it will issue within the said six months an order depriving such parts of the record as it may consider to be imperfectly prepared of the finality contemplated in rule 60.

64. Nothing in these rules shall be taken to bar the admission, within three years of the date of the Settlement-officer's final report, of the individual claims of any person who can prove that, by reason of absence from the Punjab during the Hazára settlement-operations, he had no probable means of knowing that they were going on.

65. Except as expressly provided in these rules, all the proceedings of the Hazára settlement shall be regulated by the spirit of the enactments under which the first settlements of the interior districts of the Punjab were carried out.

RULES FOR THE CONSERVANCY OF TREES AND FOREST LANDS IN HAZÁRA.
[*Rep. by Reg. II of 1873,*[a] *s. 1.*].

[a] Reg. II of 1873 was revived and continued by Reg. V of 1874, and both Regulations were subsequently repealed by Reg. II of 1879, s. 1.

REGULATION No. I of 1873.

Spití Regulation, 1873.

Published in the Gazette of India of 22nd February, 1873, p. 177, and in the Punjab Gazette of 27th February, 1873, p. 95.

The following Regulation for the peace and government of the Pargana of Spití, having been proposed by His Honour the Lieutenant-Governor of the Punjab, has been considered and approved by His Excellency the Governor General in Council, and is now published for general information, as having the force of law under 33 Vic., cap. 3, section 1:—

This Regulation may be called the Spití Regulation, 1873; it extends to the Pargana of Spití, and shall come into force on the first day of April, 1873. Title, extent and commencement.

2. When there is reason to believe that an offence has been committed in the Pargana of Spití, the Nono of Spití shall cause the person accused or suspected of having committed such offence to be brought before him, and shall, in his presence, enquire into such offence. Duty of Nono to enquire into offences.

3. The said Nono shall record, or cause to be recorded, at the time and in the presence of the accused, the statements of the complainant, the witnesses, and the accused, and the record of such statements shall be signed or sealed by the said Nono. Proceedings to be recorded.

4. If the offence be murder or culpable homicide, or causing death by negligence, or an attempt to commit murder, or culpable homicide, or the abetment of any of these offences, or the abetment of suicide, or if, in the opinion of the said Nono, it cannot properly be punished by fine, he shall report the case to the Assistant Commissioner of Kulu, and shall, till the receipt of orders from the said Assistant Commissioner, confine the accused person, keeping an account of any sums expended for the guard and keep of such accused person. Nono to report certain cases to Assistant Commissioner of Kulu.

5. In the case of any other offence, if, in the opinion of the said Nono, it can be properly punished with a fine of rupees two hundred, the said Nono may, if he consider the accused person guilty of the offence, inflict a fine of such amount as he thinks fit, not exceeding rupees two hundred. Fine leviable by Nono in other cases.

6. In every case in which the said Nono fines any person, he shall, if such person demand it, give him a copy of his order, and of all statements made in the case. Such copy should be certified to be a true copy by the Nono, and be signed or sealed by him. Person fined may demand copy of the order.

7. Any person fined by the said Nono may appeal within a reasonable time to the said Assistant Commissioner. Such appeal need not be on stamped paper, and may be sent through the post. It must be in every instance accompanied by a certified copy of the Nono's order, and of all statements in the case. Appeal from order of Nono.

Mode of realizing fines.

8. If any fine inflicted by the said Nono is not paid within a month, he may order the amount to be realized by attachment and sale of the moveable property of the person fined. If such moveable property is not sufficient to defray the fine, the Nono may report the case to the said Assistant Commissioner of Kulu, and if the Assistant Commissioner of Kulu procures the sanction necessary for the sale of immoveable property, and orders the immoveable property of the person fined to be sold, the said Nono may sell so much of the said immoveable property as is necessary to defray the fine or the unsatisfied balance thereof.

Power of Assistant Commissioner to suspend enquiries before Nono.

9. The Nono shall, when ordered by the Assistant Commissioner of Kulu, suspend any enquiry in which he may be engaged under this Regulation, and transfer the case and the witnesses to the Assistant Commissioner's Court.

Disability of Nono to try certain cases.

10. The Nono shall not try any case in which he himself, his own servants or relatives are concerned, but send a report of the complaint in such case to the tahsíl in Kulu.

Registers to be kept up by Nono.

11. The Nono shall keep up two registers, to contain the following statements, the numbers in each register to correspond:—

Register No. I.—Name of prosecutor, with parentage:
Age, caste and residence:
Name of accused, with parentage:
Age, caste and residence:
Charge:
Final orders and date.

Register No. II.—Name of person fined, with parentage, age, caste and residence:
Date of order:
Amount of fine ordered:
Amount of fine realized.

The statements are to be kept up to date, and the registers submitted twice in the year to the Assistant Commissioner at Kulu, together with the fines realized. They must first be sent in in the Spring, as soon as the passes are open, and again, the second time, in the Autumn, before the passes are closed.

Offences for which fines may be inflicted by the Nono.

12. Fines may be inflicted by the said Nono under this Regulation for the following offences:—

committing an assault, voluntarily causing hurt, voluntarily causing grievous hurt, wrongful restraint, robbery, theft, rape, unnatural offences, adultery, abduction of women or of children under the age of ten years, kidnapping minors or persons of unsound mind from lawful guardianship:

And such offences, when falling under the jurisdiction hereby conferred

upon the Nono, shall not be subject to the jurisdiction or procedure established by the Code of Criminal Procedure, 1882.[a]

X of 1882.

13. No proceeding of the Nono under this Regulation shall preclude the said Assistant Commissioner from holding an enquiry into any offence committed in the Pargana of Spití, if he think it desirable to do so.

Enquiries by Assistant Commissioner.

14. No law hereafter passed by the Governor General in Council shall be deemed to extend to the Pargana of Spití, unless the same be specially named therein.

Enactments not to apply to Spití, unless expressly extended thereto.

REGULATION No. VII OF 1873.

Punjab Frontier Crossing Regulation, 1873.

Published in the Gazette of India of 20th December, 1873, p. 1014, and in the Punjab Gazette of 25th December, 1873, p. 425.

WHEREAS by a Resolution passed by the Secretary of State in Council on the 6th day of October, 1870, the provisions of the thirty-third of Victoria, chapter 3, section 1, were declared applicable to the Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán:

And whereas the Lieutenant-Governor of the Punjab has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same;

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent:

In pursuance of the direction contained in the said section, the said draft is now published in the *Gazette of India*, and will be published in the local Gazette, and will thereupon have the force of law:—

Regulation.

1. No person duly warned in the manner hereinafter described shall pass out of British territory across the frontier of the districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán.

Persons duly warned not to cross frontier.

2. A warning for the purpose of this Regulation, if addressed to an individual, shall be in writing under the hand of the Commissioner of the division, or of the Magistrate of the district, within which such individual dwells or may be found, and shall be served upon him in such manner as the Local Government may from time to time prescribe; if addressed to a class of persons or to the public generally, the previous sanction of the Governor General in Council must be obtained, and this warning shall be notified in the *Punjab*

Warning addressed to individuals, a class or the public.

---

[a] See Act X of 1882, s. 3.

Government Gazette, and be otherwise published in such manner as may be directed by the Local Government.

Penalty for disobeying warning.

3. Whoever disobeys, or attempts to disobey, or abets, within the meaning of the Indian Penal Code, another person, in disobeying or attempting to disobey, the prohibition contained in the first section of this Regulation, shall be punishable with fine not exceeding five hundred rupees. XLV of 1860.

The provisions of sections 64, 67, 68, 69 and 70 of the Indian Penal Code shall apply to all fines imposed under this section.

Power to order offender's removal to another place.

4. If any person disobeys, or attempts to disobey, or abets, within the meaning of the Indian Penal Code, another person in disobeying or attempting to disobey, the said prohibition, the Local Government may order him to remove to such place under the government of the Lieutenant-Governor of the Punjab as the Local Government in each case directs.

Power to apprehend persons contravening such order.

5. If any person contravenes any such order, the Commissioner of the division or Magistrate of the district within which he is dwelling or may be found may cause him to be apprehended and detained in custody until he is released upon such conditions as the Local Government thinks fit.

Power to take security from persons suspected of intended disobedience to warning.

6. If the Commissioner of the division or Magistrate of the district within which any person (whether an European British subject or not) is dwelling or may be found reasonably suspects that he intends to disobey the prohibition contained in the first section of this Regulation, such Commissioner or Magistrate may require such security for his good behaviour, for a period not exceeding six months, as to the Commissioner or Magistrate may seem sufficient.

The provisions of the Code of Criminal Procedure,[a] sections 507 to 516 (both inclusive), shall apply, *mutatis mutandis*, to all cases under this section. X of 1872.

REGULATION No. I OF 1874.

Punjab Frontier Grazing Regulation, 1874.

Published in the Gazette of India of 21st February, 1874, p. 114, and in the Punjab Gazette of 12th March, 1874, p. 105.

WHEREAS by a Resolution passed by the Secretary of State in Council on the 6th day of October, 1870, the provisions of the thirty-third of Victoria, chapter 3, section 1, were declared applicable to the districts of Bannu, Dera Ismáil Khán and Dera Gházi Khán;

And whereas the Lieutenant-Governor of the Punjab has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same;

[a] Now Act X of 1882, see s. 3, *ib.* For corresponding provisions of the Code of 1882, compare certain of the provisions of Chapter VIII and sections 511, 514 and 554 of that Code.

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent:

In pursuance of the direction contained in the said section, the said draft is now published in the *Gazette of India*, and will be published in the local Gazette, and will thereupon have the force of law.

1. This Regulation may be called the Frontier Grazing Regulation, 1874. Title.

2. In this Regulation "cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies and mules. Definition of cattle.

3. No cattle, sheep, asses or goats shall, except in the cases provided for in section 9, be grazed to the west of the frontier military road in the districts of Bannu, Dera Ismáíl Khán and Dera Gházi Khán, without being accompanied by an armed guard of not less than the following strength, namely:— Prohibition against grazing animals unaccompanied by armed guard.

(*a*) for sheep, goats and asses, where the number does not exceed one hundred, one man; for every additional hundred or part of a hundred, one man:

(*b*) for cattle, where the number does not exceed one hundred, two men; for every additional hundred, or part of a hundred, two men.

Where, as in the Marwat District of Bannu, the frontier military road skirts the foot of the hill-ranges in independent territory, no cattle, sheep, asses or goats, except as provided for in section 9, shall be grazed on the lands of any village which immediately adjoins the frontier unless accompanied by an armed guard of the strength already mentioned.

4. Any cattle, sheep, asses or goats discovered by the patrols grazing within the abovementioned limits unaccompanied by the guard prescribed in the preceding section shall be seized and sent to the nearest police-station. Seizure of animals grazed without such guard.

5. No animals taken to a police-station under the preceding section shall be released, except on payment of the following penalties in addition to all charges incurred in seizing and keeping them:— Fines leviable on delivery of such animals.

for each camel	two annas;
" " head of cattle other than camels, and for each ass .	one anna;
" " sheep or goat	three pies.

6. When animals which have been carried off owing to the gross negligence of the owners and their failure to comply with the requirements of this Regulation are subsequently recovered by the police or by other officers of Government, the following penalties shall be exacted on their restoration to the owners in addition to all charges incurred in recovering and keeping them:— Penalties leviable on restoration of animals carried off through owners' negligence or disregard of Regulation.

for each camel	five rupees;
" " head of cattle other than camels . . .	one rupee;
" " ass	eight annas;
" " sheep or goat	two annas.

Procedure on refusal to pay such penalties.

7. If the owner of any animals seized or recovered under this Regulation, or his agent, appear and refuse to pay the penalties and charges incurred, the animals, or as many of them as may be necessary, shall be sold under the orders of the Deputy Commissioner to defray the said charges and penalties as nearly as may be in accordance with the rules prescribed for impounded cattle by section 16 of the Cattle-trespass Act, 1871. I of 1871.

Sale of animals not claimed and disposal of proceeds.

8. If any animals seized or recovered under this Regulation be not claimed within seven days from the date of their being so seized or recovered, they may, after proclamation of the number and description of the animals, the place where they were seized or recovered, and the police-station to which they have been taken, be sold under the orders of the Deputy Commissioner as nearly as may be in conformity with the rules prescribed for impounded cattle by section 14 of the Cattle-trespass Act, 1871. The surplus proceeds of the sale, after deducting all penalties and charges, shall be held in deposit for three calendar months, and, if no claims thereto be preferred and established within that period, shall at its expiry be at the disposal of the Local Government.

Power to exempt certain tracts from the operation of sections 3, 4 and 5.

9. When tracts of territory, hill and plain, on both sides of the frontier line in the districts before-mentioned are occupied by members of the same tribe (as in the cases of the Ashtaránís in Dera Ismáíl Khán, and of the Ahmadzai Waziris in Bannu), the Deputy Commissioner of the district may in his discretion accept written guarantees from the headmen of such tribes for the security of cattle, sheep, asses or goats at graze on the border, should such headmen represent that armed guards are unnecessary; and, in the event of his accepting such guarantees, the tracts in question shall be exempt from the operation of sections 3, 4 and 5 of this Regulation. Information of such exemptions from the operation of the said sections shall be invariably conveyed to the officer commanding the militia and outposts.

REGULATION No. II OF 1874.

Hazára Settlement Rules Amendment Regulation, 1874.

Published in the Gazette of India of 7th March, 1874, p. 134, and in the Punjab Gazette of 12th March, 1874, p. 107.

WHEREAS the Secretary of State in Council has, by Resolution in Council, declared the provisions of the thirty-third of Victoria, chapter three, applicable to the districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáíl Khán and Dera Gházi Khán;

And whereas the Lieutenant-Governor of the Punjab has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same;

And whereas the Governor General in Council has taken such draft and reasons into consideration, and such draft has been approved of by the Governor General in Council, and has received the Governor General's assent:

In pursuance of the direction contained in the first section of the said thirty-third of Victoria, chapter three, the said draft is now published in the *Gazette of India* and will be published in the local Gazette, and will thereupon have the force of law:—

1. This Regulation may be called the Hazára Settlement Rules Amendment Regulation. It extends to the district of Hazára only.

2. The third, fourth and fifth of the Rules entitled "Hazára Settlement Rules," and set forth in clause 13 of the Punjab Regulation published in Foreign Department Notification No. 31P., dated 5th January, 1872, shall be repealed.

Reg. I of 1872.

3. Act XV of 1877 (the Indian Limitation Act, 1877,) shall have the same force in the district of Hazára as in the other districts of the Punjab.

Act XV of 1877 to be in force in Hazára.

4. Nothing hereinbefore contained applies to claims instituted under the Hazára Settlement Rules before the date on which this Regulation comes into force or admissible under the 64th of the said Rules.

Saving of certain claims.

5. On and from the date on which this Regulation comes into force, Nos. 49 to 53 of the said Rules, both inclusive, shall be repealed.

Repeal.

REGULATION No. VII OF 1874.

Punjab Frontier Jágír Revenue Collection Regulation, 1874.

Published in the Gazette of India of 16th January, 1875, p. 39, and in the Punjab Gazette of 21st January, 1875, p. 29.

WHEREAS it is expedient to permit certain assignees of land-revenue in the Trans-Indus districts of the Punjab to continue to collect the land revenue in kind instead of in cash;

And whereas a draft of the following Regulation, together with the reasons for proposing the same, has been proposed to the Governor General in Council by His Honour the Lieutenant-Governor of the Punjab, and has been considered and approved by the Governor General in Council, such Regulation is now published for general information, as having the force of law under Statute 33 of Victoria, chapter 3, section 1:—

1. This Regulation may be called the Punjab Frontier Jágír Revenue Collection Regulation, 1874. It extends to the districts of Pesháwar, Kohát Bannu, Dera Ismáil Khán and Dera Ghází Khán.

Title and extent.

2. The said Lieutenant-Governor may by order permit any assignee of

Power to

permit assignees to collect land-revenue in kind.

land-revenue in any part of the above-named districts to collect the whole or any specified part of the land-revenue assigned to him in kind instead of in cash from the proprietary cultivators in his jágír estates: provided that such assignee of land-revenue has heretofore been permitted to collect in kind the whole or such part as aforesaid of the said revenue.

Acquiescence of proprietory cultivators not required.

3. The permission mentioned in the last section may be granted irrespective of the acquiescence of the said proprietary cultivators. But the share of the produce so to be collected by the jágírdár shall be specified by the order granting the permission, and shall be the estimated equivalent of the cash-assessment fixed on the principles of assessment of the land-revenue prescribed for the time being in the districts abovenamed.

Power to cancel permission granted under section 2.

4. The said Lieutenant-Governor may at any time at his discretion cancel any permission granted under section 2.

Exclusion of jurisdiction of Courts to set aside such permission.

5. No Court shall take cognizance of any claim to set aside any order for the time being in force permitting an assignee of land-revenue to collect revenue in kind, or specifying the share of the crop which he may collect as such assignee.

THE HAZÁRA FOREST REGULATION, 1879.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
   Repeal of Regulations II of 1873 and V of 1874.
2. Meaning of terms employed.

CHAPTER II.

OF RESERVED FORESTS.

3. Management in whom vested.
4. Rights and privileges.
5. Utilization of forest-produce.
6. Demarcation.
7. Acts prohibited.

CHAPTER III.

Of Village-forests.

SECTIONS.

8. Maintenance of certain waste-lands as village-forests.
9. Voluntary submission of land to forest conservancy.
10. Demarcation of village-forests.
11. Provisional supply of timber, and permission to cultivate until demarcation is effected.
12. Clearing for cultivation.
13. Management of village-forest in whom vested.
14. Management of village-forests and utilization of produce.
15. "General Management Orders" what to contain; copy to be kept by patwárí for inspection.
16. Acts prohibited.
17. Enjoyment of produce of village-forests.

CHAPTER IV.

General.

18. Protection of plane trees and groves in certain places.
19. Provision for issue of "seigniorage notification."
20. Provision for preserving stability of soil under cultivation on hill sides.
21. Provision for cases of danger from landslips, erosions, &c.
22. Power of Local Government to issue rules for floating timber and levying fees.
23. Jurisdiction of Civil Courts barred in certain cases, and procedure provided.

CHAPTER V.

Of Liabilities, Offences and Penalties.

24. Responsibility of landowners, &c, contractors and permit-holders in cases of forest-offences and fires.
25. Punishment of offences.
26. Forfeiture of implements, &c.
27. Compensation for injury caused by offences, and reward to informer.
28. Burning of forests; joint and several liabilities of villagers.
29. Power to close lands burnt against all user till restored.
30. Illicit cultivation; similar power.
31. Cattle-trespass.
32. Procedure.
33. Power of arrest of person.
34. Power of seizure of forest-produce unlawfully removed.
35. Forest-officers may be invested with certain powers.

REGULATION No. II OF 1879.

A Regulation to provide for the preservation and management of Forests in the District of Hazára.

Published in the Gazette of India of 28th June, 1879, p. 429, and in the Punjab Gazette of 3rd July, 1879, p. 380.

Preamble.

WHEREAS it is expedient to provide for the preservation and management of forests in the district of Hazára; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Regulation may be called the Hazára Forest Regulation, 1879:

Local extent.

It applies to the whole of the Hazára District, with the exception—

(1) of the hereditary territory of the Nawáb of Amb, and

(2) of such ilakas and villages in Hazára as the Local Government may from time to time exempt from the operation of it.

Commencement.

It shall come into force on the first day of August, 1879.

Repeal of Regulations II of 1873 and V of 1874.

On and from that day the Hazára Forest Regulation, No. II of 1873, and the Hazára Forest Regulation Continuance Regulation, No. V of 1874, shall be repealed.

Meaning of terms employed.

2. In this Regulation, unless otherwise expressly stated,—

"Deputy Commissioner" means the Deputy Commissioner of Hazára:

"Government forest-officer" means any officer of the Government Forest Department:

"village-forest-officer" means any person entrusted by the Deputy Commissioner with any function or charge in the village-forests:

"waste-land" includes all uncultivated hill land excepting public ways, graveyards, sacred places, the banks and corners of fields, inhabited sites, with the land immediately attached to those sites, and fallow land:

Explanation.—Land is "fallow" within the meaning of this definition when it has been cultivated within three years preceding the date of this Regulation:

"reserved forest" means waste-land which has been declared as reserved forest at settlement or by any subsequent order of competent authority:

"village-forest" means such waste-land as has been set apart under section 8 or section 9.

CHAPTER II.

Of Reserved Forests.

3. The management of the reserved forests is vested in the Government forest-officers. Management in whom vested.

4. No rights or privileges shall be recognized in any reserved forests except such as have been defined and recorded at settlement, or have been or may be hereafter defined and recorded in favour of individuals or communities by the Local Government. Rights and privileges.

No such right or privilege, and no produce obtained by its exercise, shall be alienated by sale, lease or otherwise except to Government, unless such alienation is expressly permitted in the order defining and recording such right: provided that when any such right or privilege is annexed to any land it may be sold or otherwise alienated with such land.

5. No person shall have a claim as of right to have a permit issued to him to cut trees or brushwood, to graze cattle or cut grass, to collect dead or fallen wood or any other produce of the forest, or to burn lime, surkhi or charcoal; but all utilization of the produce of the reserved forest shall be effected according to the orders of the Conservator of Forests, subject to the general instructions of the Local Government. Utilization of forest-produce.

Nothing in this section shall affect any right recorded at settlement or by the Local Government after settlement.

6. Whenever the limits of any reserved forest are not sufficiently indicated by natural marks or other existing boundaries, they shall be demarcated by permanent and conspicuous marks; and the limits of tracts assigned for the exercise of recorded rights (where such exist) within the reserved forest should be conspicuously demarcated also. Demarcation.

7. The following acts are prohibited in reserved forests:— Acts prohibited.

(*a*) the setting fire to the grass or forest; the carrying or kindling of any fire in the forest; the neglect to extinguish camp or other fires in the vicinity of a reserved forest:

(*b*) the grazing or driving of cattle:

(*c*) the cutting, lopping, tapping or burning any tree or shrub; the stripping-off the bark or leaves of any tree or shrub:

(*d*) the collection or removal of any produce of forest or its soil:

(*e*) the clearing or breaking-up of land for cultivation or for any other purpose:

(*f*) the erecting of any building or the making of any enclosure:

(*g*) any entry into fenced enclosures:

Nothing in this section shall prevent any act done by permission in writing of the Government forest-officer, or the exercise of any right recorded at

settlement or by the Local Government after settlement, or acquired by grant or contract made by or on behalf of the Local Government.

CHAPTER III.

OF VILLAGE-FORESTS.

Maintenance of certain waste-lands as village-forests.

8. Saving existing rights in land already lawfully appropriated for cultivation, waste-land within the limits specified below, not being reserved forest, may, subject to the control of the Local Government, be set apart by the Deputy Commissioner as "village-forest," and shall be brought and maintained under wood or turf, or partly under wood and partly under turf, as far as the nature of the ground may allow or the circumstances of the case require. Such limits are the following :—

(1) the crests and slopes immediately below the crests of hills (within the limits of tree vegetation):

(2) catchment-basins of rivers, streams, torrents, ravines and their feeders:

(3) the banks and beds of such rivers, streams, torrents and ravines:

(4) all steep or rocky slopes:

(5) waste-lands which, though not situated in any of the above positions, are, nevertheless, of such value or utility for the supply of material or otherwise that their clearance would in the judgment of the Deputy Commissioner be unadvisable.

Explanation.—Nothing in this section shall be held to prevent the ultimate clearance of land originally maintained as forest under the fifth condition of this section when the circumstances are such that, in the opinion of the Deputy Commissioner and the forest-officer, the reason for maintaining the lands as forests no longer exists.

Voluntary submission of land to forest-conservancy.

9. In any case in which such proportion of the owners of any land, other than land referred to in section 8, as pay not less than two-thirds of the revenue due on such land apply to the Deputy Commissioner in this behalf, the Deputy Commissioner may set apart the said land as "village-forest."

The arrangement so made shall hold good for the period of settlement, or for such shorter period as may be desired by the applicants.

Demarcation of village-forests.

10. The limits of tracts set apart as village-forest when not sufficiently indicated by natural marks or other existing boundaries shall be demarcated in such manner as the Deputy Commissioner may direct; and the limits of the forest shall in all cases be indicated in the village-map.

Provisional supply of timber, and permission to cultivate until demarcation is effected.

11. In any tract referred to in section 8, the felling of trees required for domestic and agricultural requirements and the breaking-up of land for cultivation shall, until such time as the limits of such tract are indicated or demarcated in the manner provided by section 10, be effected pursuant to written permits issued by the Deputy Commissioner as heretofore; but permits to

break-up land shall be refused if it appear that the land applied for is in one or other of the positions or conditions declared in section 8.

Clearing for cultivation.

12. When the Deputy Commissioner declares that the demarcation of the forests in the area of any village is completed, all such waste lands in such area as are not included in reserved or village forest may be cleared for cultivation without reference to the Deputy Commissioner or other authority:

Provided always that before commencing such cultivation sufficient notice in writing of the intention to cultivate be given by the owner of the waste-land to the lambardár and village-patwárí, who shall forward the notice to the Deputy Commissioner.

Management of village-forest in whom vested.

13. The management of the "village-forest" is vested in the village-forest-officers, subject to the control of the Deputy Commissioner.

The Government forest-officers shall give such assistance and advice as may be required by the Local Government, and may, under the orders of the Local Government, inspect and report on the working of the rules herein contained.

Management of village-forests and utilization of produce.

14. The village-forests shall be managed pursuant to written "General Management Orders" which may from time to time be issued by the Deputy Commissioner under the general instructions of the Local Government.

"General Management Orders" what to contain; copy to be kept by patwárí for inspection.

15. The "General Management Orders" shall, among other matters, provide for the following:—

(*a*) the number of trees of each kind which may be felled and the area on which coppice or brushwood may be cut during each year, the situation of such trees and the limits of such areas;

Explanation.—The cuttings assigned to several years may be allowed to accumulate, but shall never be anticipated or exceeded;

(*b*) the thinnings or other works of improvement to be made during each year;

(*c*) the portions of the forest in which grazing or grass-cutting or collection of any produce of the forest is to be restricted or prohibited in order to promote the re-production and growth of the forest;

(*d*) the kinds of trees and portion of the forests in which trees of such kinds may be lopped for fodder;

(*e*) the places where and conditions under which lime, "surkhí" or char-coal may be burnt.

Explanation.—Such "General Management Orders" may be annual or for a term of years.

The village-patwárí shall be furnished with a copy of such "General Management Orders," together with any additions thereto or alterations therein that may have been duly made, and shall be responsible for keeping and allowing free inspection of such orders as may be in force for the time being.

Acts prohibited.

16. The following acts are always prohibited in village-forests:—

1st.—Squatting, or building or breaking-up land for cultivation.

Exception.—Such sheds as are put up to shelter graziers during the grazing seasons;

2nd.—Cutting trees or brushwood, or collecting any produce of the forest or its soil, contrary to the terms of the "General Management Orders."

3rd.—Lopping trees of the kinds not specified by, or trees of the kinds specified but not in the parts of the forest authorized by, the "General Management Orders."

4th.—Barking, boring for turpentine, or otherwise injuring trees or brushwood not allowed to be felled within the current year by the "General Management Orders."

5th.—Grazing or driving of cattle contrary to the terms of the "General Management Orders."

6th.—Removing dead leaves or surface-soil from the forest.

7th.—Kindling fire in the forest, negligently allowing camp-fires to remain unextinguished in the vicinity of the forest, and negligently allowing fire to extend thereto; also any breach of the "General Management Orders" regarding burning of lime or "surkhí."

Exception.—Nothing in this clause shall be held to prevent the firing of lands producing grass only, and which shall be indicated every year by the Deputy Commissioner as lands which in his opinion may be safely fired without risk of damage to the stability of the soil, of the lands themselves, or risk of the fire extending to any forest or to trees and brushwood in the vicinity.

Enjoyment of produce of village-forests.

17. Subject to the provisions of sections 13 to 16 (both inclusive), the use of the village-forests and of the produce thereof shall continue to be enjoyed by such inhabitants of the village and other persons as may under the settlement-orders be entitled thereto; and all such persons may dispose of such produce in any manner they please:

Provided that nothing in this section shall be held to exempt any person from payment of any seigniorage or other charge to which he may be liable.

CHAPTER IV.

GENERAL.

Protection of plane trees and groves in certain places.

18. The Local Government may prohibit by notification in the official Gazette the felling of, or any kind of injury to, plane or other kinds of trees growing in groves, near villages, along roads, at burying-places or *ziárats*, or near springs and streams.

Provision for issue of "seigniorage notification."

19. So long as any individuals or communities who may under existing orders and terms of settlement be entitled to receive from Government seigniorage fees in respect of trees felled in reserved forests and bound to pay such fees in respect of trees felled outside the reserved forests shall not have

consented in writing to the abolition of such payment on either side and placed such written consent on record in the office of the Deputy Commissioner, the list of seigniorage fees (in force on the date on which this Regulation comes into force) shall be maintained for the purposes of such payments:

Provided that the Local Government may revise the rates in such list not oftener than once in five years, and may at any time add trees to it or exclude trees from it.

The rates may be uniform throughout the district, or varied in different parts thereof.

Whenever the list of seigniorage rates has been revised, the Local Government shall publish a notification in the Government Gazette which shall set forth the rates of seigniorage payable, the circumstances under which trees are exempt from charge, and such other matters connected with seigniorage payments as the Local Government may see fit to regulate.

Provision for preserving stability of land under cultivation on hill sides.

20. In the case of existing cultivation on hill-sides, the Deputy Commissioner may require the owner of such land to protect it by a retaining-wall or to take such other precaution to ensure the stability of the soil as he may deem necessary.

Provision for cases of danger from landslips, erosions, &c.

21. When in any case the head or banks of any stream are being dangerously eroded, or there is danger of the formation of torrents or the occurrence of landslips, the Deputy Commissioner may enclose the area necessary to prevent or remedy the evil, and may cause such area to be planted. The enclosure may be permanent or for such limited period as may be necessary to secure the removal of the danger.

Land enclosed under this section shall, while so enclosed, be subject to all the prohibitions provided in regard to reserved forests.

As far as is necessary for this purpose, the Deputy Commissioner may restrict all rights and privileges in such area. For all rights and privileges so restricted compensation shall be claimable and be awarded as nearly as may be in the manner provided by the law for the expropriation of land:

Provided that no compensation shall be claimable for any right or privilege to the exercise of which the necessity for the enclosure is primarily attributable.

Power of Local Government to issue rules for floating timber and levying fees.

22. The Local Government may from time to time make rules to regulate the transport of timber or other forest-produce by rivers and streams within the district affected by this Regulation, the custody thereof during transit, the levy of fees in respect of timber or other forest-produce transported by such rivers or streams, and the disposal of waif and unowned timber or other produce.

Jurisdiction of Civil Courts barred in certain cases, and

23. No Civil Court shall exercise jurisdiction over any of the following matters:—

(*a*) any matter provided for in sections 3 to 15 (both inclusive) and in sections 20 and 21;

procedure provided.

(*b*) any matter provided for in sections 29 and 30.

In the above cases jurisdiction shall rest with the revenue-officers only, and all proceedings shall be governed by the procedure prescribed for the time being under clauses 1, 2 and 3 of section 66 of Act No. XXXIII of 1871.[a]

Costs and expenses arising out of such proceedings recoverable from any of the parties thereto shall be recovered in the manner provided for arrears of revenue by section 64 of that Act.

CHAPTER V.

Of Liabilities, Offences and Penalties.

Responsibility of landowners, &c., contractors and permit-holders in cases of forest-offences and fires.

24. It shall be the duty of all landowners, occupants of land and all persons enjoying the user of any reserved or village forest to aid in the prevention and prosecution of offences against this Regulation, and in extinguishing all forest-fires prohibited by it, whether called upon to do so by a public servant or not.

Contractors and other persons employed by them in any forest, and persons holding any permit or lease in such forest, have the same duty as regards the forest in which their employment, or permit, or lease subsists.

Punishment of offences.

25. Any person who commits or (within the meaning of the Indian Penal Code) abets the commission of any act prohibited in or under Chapters II and III and sections 18 and 21 of this Regulation, or who breaks any rule made under section 22, or who voluntarily neglects the duties imposed on him by section 24, shall, on conviction before a Magistrate, be punished with fine which may amount to Rs. 100, or ten times the value of the forest-produce (if any) injured or illicitly taken; and, in default of payment, to rigorous or simple imprisonment for a term not exceeding six months. XLV of 1860.

In case of a second conviction, rigorous or simple imprisonment not exceeding six months may be awarded in addition to the above penalty.

Forfeiture of implements, &c.

26. The penalty provided in the last preceding section may, in the discretion of the adjudicating Magistrate, be accompanied by the forfeiture of all implements, cattle or conveyances used in the commission or furtherance of the offence adjudicated; and all wood or other forest-produce illicitly obtained shall be restored to the Government Forest Department or to the Deputy Commissioner, as the case may be.

Compensation for injury caused by offences, and reward to informer.

27. In all cases when in the opinion of the Magistrate the restoration of the produce would be an insufficient compensation for injury done, the whole or any portion of the fine levied, and the whole or any portion of the proceeds

[a] Act XXXIII of 1871 was repealed by Act XVII of 1887, s. 2 and Sch. Under sub-s. (*3*) of that section references to Act XXXIII of 1871 should be construed as if made to Act XVII of 1887.

of implements, cattle or conveyances forfeited, may be awarded as such compensation.

The Magistrate may, in his discretion, award a portion (not exceeding half) of the fine to the person (not being a public servant) by whose information or exertions the offender was brought to justice.

Nothing in this section shall be held to bar the rights of the Government and the owners of the forest to a civil suit for damages in respect of any injury sustained.

Burning of forests joint and several liabilities of villagers.

28. In cases of illicit burning of forests, or in any case in which it may appear that any community of villages, landowners or occupants of land, or section of such community, has neglected to render reasonable assistance in the prevention and prosecution of any forest-offence, it shall be lawful for the Deputy Commissioner or any first class Magistrate to treat all the villagers, landowners or occupants of land in whose vicinity the burning has occurred or the default has been made as liable for such burning or default, and to sentence each individual to the fine provided in section 25, and, in default of payment, to imprisonment as therein provided.

Power to close lands burnt against all user till restored

29. In cases of illicit firing of any forest, it shall be lawful for the Deputy Commissioner (whether or not any punishment has been inflicted under section 25 or 28) to direct that the lands burnt be reserved from all user of private right-holders for two years or such longer time as may be necessary to restore the land to the condition in which it was before the burning. The order may also direct that such expenses of protection and watching and of works for reproduction as cannot be met by the proceeds of the produce of such forest shall be recovered from the persons whose act or neglect caused or contributed to the burning, or from the village-community or section thereof which had the right of grazing cattle in the forest.

Illicit cultivation, similar power.

30. In all cases of illicit cultivation of any forest (whether or not any punishment has been inflicted under section 25), the Deputy Commissioner may enclose the land so cultivated, and may suspend the exercise of all rights for two years, or for such longer time as may be necessary to reproduce any trees, brushwood or turf that may have been destroyed in order to its cultivation.

Cattle-trespass

31 All cattle found straying or unlawfully grazing in any reserved forest or in any portion of an unreserved forest in which grazing is prohibited under section 16, or in any land closed under the provision of section 21, 29 or 30, may be seized by any police, revenue, Government forest or village-forest officer; and, when so seized, shall be driven forthwith to the nearest pound or police-station, to be there dealt with according to the law provided for cattle-trespass

Provided that, when cultivation closely adjoins the boundary of a forest, no cattle straying from such cultivation or its neighbourhood shall be liable to seizure under this section unless the forest in that part adjoining the said cultivation has been efficiently fenced

No cattle shall be liable to seizure which are being lawfully driven along a road or track on which a right of way exists, even though they stray from such road or track Provided that the driver uses reasonable care and diligence to prevent his cattle from so straying, and drive back such as stray.

Procedure

32. All proceedings relating to offences and criminal liabilities under this Regulation shall (except as herein otherwise provided) be governed by the Code of Criminal Procedure, 1882,[a] for the time being in force. X of 1882.

Power of arrest of person

33. Any revenue, police or forest officer may arrest any person committing within his sight an offence punishable under this Regulation The person so arrested shall be taken to the nearest Magistrate or police-station, there to be released on bail or personal recognizance pending the trial of the case.

Power of seizure of forest-produce unlawfully removed.

34 Any revenue, police or forest officer may seize any timber or other produce of a forest or its soil which he has reason to believe has been obtained, or is being transported, contrary to the provisions of this Regulation or of the rules or orders issued under it. Such seizure shall be reported forthwith to the nearest Magistrate having jurisdiction in respect of such offences.

Forest officers may be invested with certain powers.

35. The Local Government may invest any forest-officer with the powers with which an Assistant Commissioner may be invested under section 5 of Act No XXXIII of 1871.[b]

Such powers shall be exercised only in cases arising out of this Regulation, and subject to the control of the Deputy Commissioner in the manner provided in the second clause of the said section 5.

THE PUNJAB FRONTIER CRIMES REGULATION, 1887.

CONTENTS.

CHAPTER I.

PRELIMINARY

SECTIONS

1. Title, commencement, extent and application.
2. Repeal.
3. Definitions.
4 Relation of Regulation to other enactments

---

[a] See Act X of 1882 s 3

[b] Act XXXIII of 1871 was repealed by Act XVII of 1887, s 2 and Sch Under sub s (9) of that section references to Act XXXIII of 1871 should be construed as if made to Act XVII of 1887.

CHAPTER II.

Powers of Courts and Officers.

Sections.

5. Additional District Magistrate.
6. Power of District Magistrate to withdraw or recall cases.
7. Confirmation and appeal.
8. Power to pass sentence of whipping in certain cases.
9. Tender of pardon to accomplice.

CHAPTER III.

Councils of Elders.

10. Civil references to Councils of Elders.
11. Effect of decree on finding of Council.
12. Restriction on jurisdiction of Civil Courts.
13. Criminal references to Councils of Elders.
14. Punishment on conviction on finding of Council.
15. Manner of enforcing sentences.
16. Time for exercising power of reference to Council of Elders.
17. Motion by Public Prosecutor in view to reference to Council of Elders.
18. Case of persons jointly accused of an offence.
19. Recommendations of Councils of Elders.
20. Record of Deputy Commissioner.
21. Revision of decrees and sentences.
22. Attendance of parties and witnesses before Council of Elders.

CHAPTER IV.

Penalties.

23. Blockade of hostile or unfriendly tribe.
24. Fines on communities accessory to crime.
25. Fines on communities where murder or culpable homicide is committed or attempted.
26. Recovery of fines.
27. Forfeiture of remissions and grants of revenue by communities accessory to crime.
28. Forfeiture of public emoluments by individuals accessory to crime.
29. Power to direct forfeiture.
30. Powers of Local Government.
31. Preparation to commit certain offences.
32. Adultery.

CHAPTER V.

PREVENTIVE AND OTHER AUTHORITY AND JURISDICTION.

General.

SECTIONS.

33. Power to prohibit new villages or towers.
34. Power to direct removal of villages.
35. Power to require persons to remove.
36. Penalty for breach of certain orders.
37. Powers of arrest in frontier districts.
38. Arrest without warrant in cases under section 498 of Indian Penal Code.

Security for Good Behaviour.

39. Security for the prevention of murder or culpable homicide.
40. Security from families when a blood-feud exists or is probable.
41. Procedure in inquiry.
42. Breach of bond.
43. Imprisonment in default of security.
44. Length of imprisonment.
45. Further security.
46. Relation of certain sections of this Chapter to the ordinary law.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

47. Power of Deputy Commissioner to order disposal of certain fines.
48. Maintenance of registers.
49. Continuance of the Police Act, V of 1861, as applied to certain districts.
50. Jurisdiction of ordinary Courts in cases under sections 31 and 32.
51. Finality of proceedings under Regulation.
52. Application of provisions of Indian Penal Code respecting fines and imprisonment.
53. Power to make rules.
54. Powers exerciseable from time to time.

SCHEDULE I.—REGULATIONS REPEALED.

SCHEDULE II.—OFFENCES REFERRED TO IN SECTION 14, SUB-SECTION (2).

REGULATION No. IV OF 1887

A Regulation for the Suppression of Crime on the Punjab Frontier.

Received the Governor General's assent on the 14th January, 1887; published in the Gazette of India on the 15th idem, and in the Punjab Government Gazette on the 20th idem.

WHEREAS it is expedient to amend the law for the suppression of crime on the Punjab Frontier, It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY.

Title, commencement, extent and application.

1. (*1*) This Regulation may be called the Punjab Frontier Crimes Regulation, 1887

[a](*2*) It shall come into force on such date as the Local Government may, by notification in the official Gazette, appoint in this behalf.

[b](*3*) It shall extend by its own operation to the districts of Pesháwar, Kohát and Hazára, and the Local Government may, by notification in the official Gazette, extend all or any of its provisions to the whole or any part of the districts of Bannu, Dera Ismaíl Khán and Dera Ghází Khán.

(*4*) Sections 1 to 7 (both inclusive), 12, 22, 23, 28 to 30 (both inclusive), 33, 34, 36, 49 and 51 to 54 (both inclusive) of this Regulation are of general application, but the rest of the Regulation may be enforced, in whole or in part, as the case may be, only against Pathans and Biluches, and such other classes as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare to be subject thereto [c]

(*5*) A notification under sub-sections (*3*) and (*4*) may declare a specified class only to be subject to all or any of the provisions of this Regulation in a district or part of a district.

(*6*) The word "class," as used in sub-sections (*4*) and (*5*), includes any persons who may be collectively described in a notification under this section as persons subject to all or any of the provisions of this Regulation.

Repeal

2 (*1*) In the districts of Pesháwar, Kohát and Hazára, the Regulations specified in the first schedule to this Regulation are repealed to the extent specified in the third column of that schedule.

[b](*2*) In any district or part of a district to which this Regulation may be

---

[a] The Regulation was brought into force in the districts of Peshawar, Kohát and Hazára on the 10th March, 1887—see Notification No 245, *Punjab Gazette*, 10th March, 1887, Part I, p 112

[b] The whole Regulation (except s 3, sub s (2), and s 14, sub s (2)) has been extended to the districts of Bannu, Dera Ismail Khan and Dera Ghazi Khán from the 1st July, 1887, and the Regulations in the schedule were repealed in those districts to the same extent as elsewhere—see Notification No 720A, *Punjab Gazette*, 14th July, 1887, Part I, p 364

[c] As to the classes of persons made subject to the whole Regulation, see Notification No. 1156, *Punjab Gazette*, 17th November, 1887, Part I, p. 609.

extended in whole or in part by notification under section 1, sub-section (*3*), all or any of those Regulations shall be repealed to such extent as the Local Government may by the notification direct.

Definitions.

3. In this Regulation—

(*1*) "Council of Elders" means a Council of three or more persons convened according to the Pathan, Biluch or other usage as the Deputy Commissioner may in each case direct; and

(*2*) "Commissioner" means the Commissioner of the Pesháwar Division.

Relation of Regulation to other enactments.

4. (*1*) The provisions of this Regulation shall take effect in cases to which they apply, notwithstanding anything in any other enactment.

(*2*) The powers conferred by this Regulation may be exercised in addition to any powers conferred by or under any other enactment, and, where the contrary is not expressed or implied, other enactments in force in any place to which this Regulation or any part thereof extends shall, so far as may be, apply to cases dealt with in that place under this Regulation.

CHAPTER II

Powers of Courts and Officers.

Additional District Magistrate.

5. (*1*) In any district to the whole or any part of which this section extends the Local Government may appoint a Magistrate of the first class to be an Additional District Magistrate.

(*2*) The Additional District Magistrate shall have the powers specified in the part of Schedule III to the Code of Criminal Procedure entitled "*V.— Ordinary Powers of a District Magistrate,*" and may be invested by the Local Government, by notification in the official Gazette, with power to try as a Magistrate all offences not punishable with death, and by the District Magistrate, by order in writing, with all or any of the powers which may be exercised by a Deputy Commissioner under this Regulation. X of 1882.

(*3*) In exercise of the power to try as a Magistrate any offence not punishable with death, the Additional District Magistrate may pass any sentence which a District Magistrate specially empowered under section 30 of the Code of Criminal Procedure may pass under section 34 of that Code.

(*4*) When exercising any of the powers of a Deputy Commissioner under this Regulation, the Additional District Magistrate shall be deemed, for the purposes of the Regulation, to be the Deputy Commissioner.

(*5*) The Local Government or District Magistrate may, by notification in the official Gazette or order in writing, as the case may be, vary or cancel a notification or order under sub-section (*2*).

(*6*) The Additional District Magistrate shall exercise his powers in subordination to the District Magistrate, and in such cases or classes of cases, and within such local limits, as the District Magistrate may by written order direct.

Power of District Magistrate to withdraw or recall cases.

6. (*1*) The District Magistrate may withdraw any case from, or recall any case which he has made over to, the Additional District Magistrate, whether the Additional District Magistrate is exercising jurisdiction with respect to the case as a Magistrate or as a Deputy Commissioner.

(*2*) If the case may, under the Code of Criminal Procedure, be referred to another Magistrate competent to inquire into or try it, the District Magistrate may, instead of disposing of the case himself, refer it to that other Magistrate for inquiry or trial, as the case may be.

Confirmation and appeal.

7. (*1*) Notwithstanding anything in section 34 of the Code of Criminal Procedure, a sentence passed by a District Magistrate or Additional District Magistrate in exercise of the power to try as a Magistrate any offence not punishable with death shall not be subject to confirmation by the Sessions Judge.

(*2*) Notwithstanding anything in section 408 of the Code of Criminal Procedure, an appeal from a sentence of transportation, or from a sentence of imprisonment for a term exceeding four years, shall, when passed by a District Magistrate or Additional District Magistrate in exercise of the power mentioned in sub-section (*1*), lie to the Chief Court and not to the Court of Session.

Power to pass sentence of whipping in certain cases.

8. When a person against whom this section may be enforced is convicted by a Criminal Court of an offence punishable under any of the following sections of the Indian Penal Code, namely, 325, 326, 376, 377, 382, 392 to 399 (both inclusive), 427, 428, 429, 435, 436 and 448 to 460 (both inclusive), the Court may pass upon him a sentence of whipping in addition to any other punishment to which he may be sentenced.

XLV of 1860.

Tender of pardon to accomplice.

X of 1882.

9. Section 337 of the Code of Criminal Procedure shall be read as if, after the word "offence" where it first occurs, the words "triable exclusively by the Court of Session or High Court," and after the words "termination of the trial" the words "by the Court of Session or High Court, as the case may be," were omitted.

CHAPTER III.

Councils of Elders.

Civil references to Councils of Elders.

10. (*1*) When the Deputy Commissioner is satisfied from a police-report or other information that a dispute exists likely to cause a blood-feud, or murder or culpable homicide not amounting to murder, or mischief or a breach of the peace, he may, if he considers that the settlement thereof in the manner provided by this section will tend to prevent or terminate the consequences anticipated, and if a suit is not pending in respect of the dispute, make an order in writing, stating the grounds of his being so satisfied and referring the dispute to a Council of Elders.

(2) The reference shall state the matter or matters on which the finding of the Council of Elders is required.

(3) On receipt of a finding of a Council of Elders under this section, the Deputy Commissioner may—

(a) remand the case to the Council for a further finding, or

(b) refer the case to a second Council, or

(c) refer the parties to the Civil Court, or

(d) pass a decree in accordance with the finding of the Council on any matter stated in the reference, or

(e) declare that further proceedings under this section are not required.

Effect of decree on finding of Council

11. A decree passed under section 10, sub-section (3), clause (d), shall not give effect to any finding or part of a finding which, in the opinion of the Deputy Commissioner, is contrary to good conscience or public policy, but shall—

(a) be a final settlement of the case so far as the decree relates to any matter stated in the reference, although other matters therein stated may remain undisposed of, and

(b) have, to that extent and subject to the provisions of this Regulation with respect to revision, the same effect as a decree of a Civil Court of ultimate resort, and be enforced by the Deputy Commissioner in the same manner as a decree of such a Court may be enforced

Restriction on jurisdiction of Civil Courts.

12. A Civil Court shall not take cognizance of any claim with respect to which the Deputy Commissioner has proceeded under section 10, sub-section (3), clause (a), clause (b) or clause (d)

Criminal references to Councils of Elders

13. (1) If, in the opinion of the Commissioner or Deputy Commissioner, it is inexpedient that the question of the guilt or innocence of any person or persons accused of any offence, or of any of several persons so accused, should be tried by a Court of any of the classes mentioned in section 6 of the Code of Criminal Procedure, the Deputy Commissioner may, or, if the Commissioner so directs, shall, refer the question to the decision of a Council of Elders, and require the Council to come to a finding on the question after such inquiry as may be necessary and hearing the accused person X of 1882.

(2) On receipt of the finding of a Council of Elders under this section, the Deputy Commissioner may—

(a) remand the question to the Council for a further finding, or

(b) refer the question to a second Council, or

(c) acquit the accused person or persons, or any of them, or,

(d) in accordance with the finding of the Council on any matter of fact convict the accused person or persons, or any of them, of any offence of which the facts found show him or them to be guilty

Punishment on conviction on finding of Council.

14. (1) In any case in which the Deputy Commissioner convicts a person under section 13, sub-section (2), clause (d), he may pass upon him any sentence of fine.

(2) In any case in which the Deputy Commissioner so convicts a person of an offence mentioned in the second schedule to this Regulation, he may, whatever may be the punishment prescribed for the offence, sentence the person, in lieu of or in addition to fine, to be whipped, or to be imprisoned for a term not exceeding seven years, or to be whipped and imprisoned for a term not exceeding five years, or to be transported for seven years:

Provided that—

(*a*) a sentence of whipping shall not be passed on a female, or on a male whom the Deputy Commissioner considers to be more than forty-five years of age;

(*b*) a sentence of imprisonment for an offence shall not be for a longer term than that, if any, prescribed for the offence; and

(*c*) a sentence of transportation shall not be passed for an offence which is not punishable with transportation or with imprisonment for a term of seven years or upwards.

Manner of enforcing sentences.

15. (*1*) Any sentence passed under the last foregoing section shall be executed in the manner provided for sentences passed by a Court of any of the classes mentioned in section 6 of the Code of Criminal Procedure.

X of 1882.

(*2*) Any decision of Elders ordered by the Deputy Commissioner under the Punjab Frontier Regulation Amendment Regulation, IV of 1873,* to be carried into effect as if it were a sentence of a Court of law, may direct, in accordance with the provisions of sections 64, 65, 66 and 67 of the Indian Penal Code, that the offender shall suffer imprisonment in default of payment of fine.

XLV of 1860.

(*3*) For the purposes of those sections of the Indian Penal Code in reference to a sentence under section 14 of this Regulation or to any such decision as aforesaid—

(*a*) an offence punishable with death or transportation for life shall be deemed to be punishable with rigorous imprisonment for a term which may extend to ten years; and

(*b*) the imprisonment in default of payment of fine may be rigorous or simple at the discretion of the Deputy Commissioner.

Time for exercising power of reference to Council of Elders.

16. The powers conferred by section 13 on the Commissioner and Deputy Commissioner may be exercised by them in cases committed to the Court of Session at any time before the trial before that Court has commenced, and in cases pending before any Court inferior to the Court of Session at any time before an order of conviction or acquittal has been made.

Motion by Public Prosecutor in view to reference to Council of Elders.

17. (*1*) In any trial before a Court of Session the Public Prosecutor may, when instructed in writing in that behalf by the Commissioner or Deputy Commissioner, at any time before an order of conviction or acquittal has been made with respect to any accused person, withdraw from the prosecution of that person in order that the case may be referred to a Council of Elders.

* Reg. IV of 1873 is repealed by this Regulation—see s. 2 and Sch.

(*2*) The Sessions Judge shall thereupon stay proceedings with respect to that person; and the Deputy Commissioner shall refer the case to a Council of Elders.

(*3*) A person in respect of whom the Sessions Judge has stayed proceedings under this section shall not be liable to be tried again before a Court of any of the classes mentioned in section 6 of the Code of Criminal Procedure, either for the same offence or on the same facts for any other offence. X of 1882.

Case of persons jointly accused of an offence.

18. The powers conferred by section 13 as limited by section 16 may be exercised against, and the withdrawal of a prosecution under section 17 may have reference to, one or some only of two or more persons jointly accused of an offence.

Recommendations of Councils of Elders.

19. (*1*) When a Council of Elders to which a reference has been made under this Regulation makes any recommendation to which effect might be given if it were a finding on a matter or question referred to the Council under this Regulation, the Deputy Commissioner may deal with the recommendation or any part of it as if the recommendation or the part thereof were a finding under section 10 or section 13.

(*2*) When the Deputy Commissioner deals with a recommendation under sub-section (*1*), he may pass any such decree as is authorised by section 10, or any such sentence as is authorized by section 14, sub-section (*1*), and the decree or sentence shall have the same effect and be enforced in the same manner as if it were a decree or sentence passed under section 10 or section 14, sub-section (*1*), as the case may be.

Record of Deputy Commissioner.

20. (*1*) When the Deputy Commissioner passes under this Chapter a sentence of fine exceeding two hundred rupees, or of imprisonment for a term exceeding three months, or of transportation, he shall make a record of the facts of the case, of the offence committed and of his reasons for passing the sentence.

(*2*) The record shall be made by the Deputy Commissioner in English, and in his own hand, unless he is prevented by any sufficient reason from so making it, in which case he shall record the reason of his inability, and shall cause the record to be made from his dictation in open Court.

Revision of decrees and sentences.

21. (*1*) An appeal shall not lie from a decree or sentence passed under this Chapter.

(*2*) The Commissioner may call for the record of any proceeding under this Chapter and revise a decree on the ground that it is contrary to good conscience or public policy, or a sentence on the ground that it is illegal or excessive.

(*3*) When the Commissioner finds it necessary to revise a decree or sentence in any case under sub-section (*2*), he may pass any order in the case which the Deputy Commissioner might have passed.

(*4*) The provisions of this Chapter with respect to the effect of, and the

mode of enforcing, a decree or sentence of the Deputy Commissioner shall apply to a decree or sentence as revised by the Commissioner.

22. Whenever a reference is made to a Council of Elders under this Chapter, the Deputy Commissioner may order that the parties and their witnesses shall appear before the Council of Elders in person at a place and time specified in the order.

Attendance of parties and witnesses before Council of Elders.

CHAPTER IV.

PENALTIES.

23. In the event of any frontier tribe acting in a hostile or unfriendly manner to the British Government, the Deputy Commissioner may, with the sanction of the Commissioner, detain all or any members of the tribe, detain or confiscate their property, debar members of the tribe from access into British territory, and prohibit British subjects from all intercourse with the tribe.

Blockade of hostile or unfriendly tribe.

24. The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on any village-community or part of a village-community the members of which, after due inquiry, are found to be guilty of colluding with or harbouring or failing to take all reasonable means to prevent the escape of criminals, or combining to suppress evidence in criminal cases.

Fines on communities accessory to crime.

25. When, within the area occupied by any village-community or part of a village-community, a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the members of that community or part shall be deemed to have committed an offence under the last foregoing section unless the headmen of the community or part can show that the members thereof—

Fines on communities where murder or culpable homicide is committed or attempted.

(*a*) had not an opportunity of preventing the offence or arresting the offender, or

(*b*) have used all reasonable means to bring the offender to justice.

26. Fines imposed under section 24 shall, in default of payment, be recoverable as if they were arrears of land-revenue due by the members of the community or part.

Recovery of fines.

27. When a village-community or part of a village-community has become liable to fine under section 24, it shall further be liable to forfeit in whole or in part and for a term or in perpetuity any remission of land-revenue of which it may be in joint enjoyment, and the members of the community or part, as the case may be, shall in like manner be liable severally to forfeit any assignment or remission of land-revenue or allowance paid out of public funds which they or any of them may enjoy.

Forfeiture of remissions and grants of revenue by communities accessory to crime.

28. When, in the opinion of the Deputy Commissioner, a person in the enjoyment of an assignment or remission of land-revenue, or of an allowance

Forfeiture of public emoluments

by individuals accessory to crime.

paid out of public funds, colludes with or harbours any criminal or suppresses evidence in a criminal case, or fails in any criminal investigation to render loyal assistance to the authorities, that person shall be liable, in addition to any other penalty which he may have incurred, to forfeit his emoluments in whole or in part and for a term or in perpetuity.

Power to direct forfeiture.

29. (*1*) Forfeiture under section 27 or section 28 may be adjudged by order of the Deputy Commissioner for a term not exceeding three years, and by order of the Commissioner for any longer term or in perpetuity.

(*2*) An order of the Deputy Commissioner passed under this section shall be subject to revision by the Commissioner.

Powers of Local Government.

30. Nothing in sections 27, 28 and 29 shall affect the powers of the Local Government with respect to the grant, continuance or forfeiture in whole or in part of any assignment or remission of land-revenue or of any allowance paid out of public funds.

Preparation to commit certain offences.

31. If a person is found carrying arms in such manner or in such circumstances as to afford just grounds of suspicion that the arms are being carried by him with intent to use them for an unlawful purpose, and that person has taken precautions to elude observation or evade arrest, or is found after sunset and before sunrise within the limits of any military camp or cantonment, he shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Adultery.

32. (*1*) A married woman who knowingly and by her own consent has sexual intercourse with any man who is not her husband is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

(*2*) Cognizance shall not be taken of an offence under this section unless a complaint has been made by the husband of the woman, or, in his absence, by a person who had care of the woman on his behalf at the time when the offence was committed.

CHAPTER V.

Preventive and other Authority and Jurisdiction.

General.

Power to prohibit new villages or towers.

33. (*1*) A new hamlet, village, tower or walled enclosure shall not be erected within five miles of the British frontier without the consent of the Commissioner, who may prohibit the erection thereof if he thinks fit.

(*2*) If the Commissioner prohibits the erection, he shall record his reasons for doing so.

Power to direct re-

34. Whenever it may be expedient on military grounds, the Local Government may, by order in writing, direct the removal of any village on

the immediate border to any other site within five miles of the original site, and award to the inhabitants such compensation for any loss which may have been occasioned to them by the removal of their village as in the opinion of the Local Government is just

moval of villages

35 When any person is known or believed to have a blood feud, or has occasioned cause of quarrel likely to lead to bloodshed, the Deputy Commissioner may require that person to reside beyond the limits of the territory to which this Regulation or any part thereof extends, or at such place within that territory as the Deputy Commissioner may deem desirable ·

Power to require persons to remove

Provided that, if the person has a fixed habitation in the place which the Deputy Commissioner considers it necessary for him to leave, a requisition under this section shall not be made without the previous sanction of the Commissioner.

36. If a person contravenes the provisions of section 33, or disobeys an order under section 34 or a requisition under section 35, he shall be punished with imprisonment of either description for a term which may extend to six months, and shall also be liable to fine which may extend to one thousand rupees

Penalty for breach of certain orders.

37. In any place to which this section extends—

Powers of arrest in frontier districts

(*1*) any private person may, without an order from a Magistrate and without a warrant, arrest or cause to be arrested, and make over or cause to be made over to a police-officer, or take or cause to be taken to the nearest police-station, any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned, and

X of 1882

(*2*) section 46 of the Code of Criminal Procedure shall be read as if the following paragraph were added thereto, namely —

Reg IV of 1887

"But this section gives a right to cause the death of a person against whom those portions of the Punjab Frontier Crimes Regulation, 1887, which are not of general application may be enforced—

(*a*) if he is committing or attempting to commit an offence, or resisting or evading arrest, in such circumstances as to afford reasonable ground for believing that he intends to use arms to effect his purpose, or

(*b*) if a hue-and-cry has been raised against him of his having been concerned in any such offence as is specified in the last foregoing paragraph of this section, or of his committing or attempting to commit an offence, or resisting or evading arrest, in such circumstances as are referred to in clause (*a*) of this paragraph."

38 (*1*) When there is reason to believe that a person has committed or attempted to commit an offence punishable under section 498 of the Indian

Arrest without warrant in cases

under section 498 of Indian Penal Code.

Penal Code, an officer in charge of a police-station may, without an order from a Magistrate and without a warrant, arrest that person on the requisition of the husband of the woman, or, in his absence, of a person having the care of her on his behalf, or, in the absence of both the husband and any such person as last aforesaid from the village in which the woman resides, on the requisition of a headman of the village. XLV of 1860.

(*2*) A police-officer making an arrest under sub-section (*1*) shall, without unnecessary delay, take or send the person arrested to the nearest Magistrate having jurisdiction.

(*3*) The Magistrate may, in default of bail being furnished to his satisfaction, detain the person arrested for such period not exceeding fifteen days as may be necessary to enable the husband, or in his absence a person who had care of the woman on his behalf, to make a complaint.

Security for Good Behaviour.

Security for the prevention of murder or culpable homicide.

39. (*1*) When the Deputy Commissioner or the Commissioner is of opinion that it is necessary, for the purpose of preventing murder, or culpable homicide not amounting to murder, to require a person to execute a bond for good behaviour, he may, on the conditions and in the circumstances mentioned in this section, order the person to execute a bond, with or without sureties, for his good behaviour during such period not exceeding three years as the Deputy Commissioner or the Commissioner, as the case may be, may fix.

(*2*) The Deputy Commissioner may make an order under sub-section (1)—

(*a*) on the recommendation of a Council of Elders, or

(*b*) after inquiry as hereinafter provided.

(*3*) When a person has been convicted in accordance with the finding of a Council of Elders of an offence mentioned in section 106 of the Code of Criminal Procedure or punishable under section 302, 304, 307 or 308 of the Indian Penal Code, the Deputy Commissioner at the time of passing sentence, or the Commissioner at the time of revising the sentence, may make an order under sub-section (*1*) with respect to that person. X of 1882, XLV of 1860.

(*4*) When the Deputy Commissioner makes an order under sub-section (*1*) on the recommendation of a Council of Elders, he shall record his reasons for acting on the recommendation.

Security from families when a blood-feud exists or is probable.

40. When a blood-feud or other cause of quarrel likely to lead to bloodshed exists, or in the opinion of the Deputy Commissioner is likely to arise, between two families, the Deputy Commissioner may, on the recommendation of a Council of Elders, or after inquiry as hereinafter provided, order all or any members of both families or of either family to execute a bond, with or without sureties, for their good behaviour during such period not exceeding three years as he may fix.

Procedure in inquiry.

41. (*1*) An inquiry for the purposes of section 39 or section 40 may be conducted so far as may be necessary out of Court.

(*2*) But a person from whom it is proposed to require a bond under section 39, or the principal members of a family from which it is proposed to require a bond under section 40, shall have an opportunity of showing cause in Court why a bond should not be required, and of having his or their witnesses examined there, and of cross-examining any witness not called by himself or themselves who may testify there to the necessity for the execution of a bond.

X of 1882. (*3*) Sections 112, 113, 115 and 117 of the Code of Criminal Procedure shall not apply to an inquiry under this section, but the Deputy Commissioner shall record his order with the reasons for making it.

Breach of bond.

42. (*1*) The commission or attempted commission, or the abetment, by a person who has given security for good behaviour under section 39, of any offence punishable under Chapter XVI of the Indian Penal Code with imprisonment for a term of one year or upwards, shall be a breach of the bond.

XLV of 1860.

(*2*) If, while a bond executed under section 40 is in force, the life of any member of either family is unlawfully taken or attempted, the Deputy Commissioner may declare the bond of all or any members of the other family, and their sureties (if any), to be forfeited, unless it is shown to his satisfaction that the homicide or attempt was not committed by, or in consequence of the abetment of, any member of that family.

Imprisonment in default of security.

43. (*1*) If a person ordered to give security for good behaviour under section 39 or section 40 does not give security on or before the date on which the period for which the security is to be given commences, he shall be committed to prison, or, if he is already in prison, be detained in prison, until that period expires, or until within that period he gives the security to the officer who made the order requiring it or to the officer in charge of the jail in which the person so ordered is detained.

(*2*) Imprisonment for failure to give security under this Chapter may be rigorous or simple as the officer requiring the security directs in each case.

Length of imprisonment.

44. When a person has suffered imprisonment for three years for failure to give security for good behaviour under section 39 or section 40, he shall be released and shall not be again required to give security unless a fresh order is passed in accordance with the provisions of this Chapter or of the Code of Criminal Procedure.

X of 1882.

Further security.

45. (*1*) A person who has under the provisions of this Chapter given security, or been imprisoned for failure to give security, may be brought before the Deputy Commissioner if, on the expiry of the period for which security was required to be given, the Deputy Commissioner so directs.

(*2*) When the Deputy Commissioner thinks it necessary for the purpose of preventing bloodshed to require security for a further period from any person so brought before him, he shall record a proceeding to that effect.

(*3*) The proceeding may be founded on the facts on which the original

order to give security was founded, and it shall not be necessary to prove any fresh facts to justify an order to give security for a further period under this section, but such an order if passed shall have the same effect and be enforced in the same manner as an original order to give security under section 39 or section 40.

(*4*) Notwithstanding anything in this section, a person shall not suffer for failure to give security under this Chapter continuous imprisonment for more than six years or, without the sanction of the Commissioner, for more than three years.

Relation of certain sections of this Chapter to the ordinary law.

46. Sections 39 to 45 (both inclusive) shall be read with and construed as part of Chapter VIII of the Code of Criminal Procedure, which shall, except when the contrary is expressed or implied, be applicable, so far as may be, to cases of requiring or giving security under this Chapter. X of 1882.

CHAPTER VI.

Supplemental Provisions.

Power of Deputy Commissioner to order disposal of certain fines.

47. (*1*) The Deputy Commissioner may give such order as he thinks fit for the disposal of the proceeds of any fine imposed under section 14, section 19 or section 24, and, subject to any order which may be passed by the Commissioner under section 21 or section 24, the proceeds shall be disposed of accordingly.

(*2*) When in pursuance of an order passed under this section a person has received compensation for an injury out of the proceeds of a fine, a Civil Court shall not take cognizance of a claim to compensation based on the same injury.

Maintenance of registers.

48. Registers shall be kept up, in forms to be approved by the Local Government, of all cases dealt with by the Deputy Commissioner and by the Commissioner under this Regulation.

Continuance of the Police Act, V of 1861, as applied to certain districts.

49. Unless the Local Government otherwise directs, the Police Act, V of 1861, as applied to the districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán and Dera Gházi Khán by the notification of the Punjab Government, No. 2935, dated the 4th August, 1873, shall continue in force in any district or part of a district to which this section for the time being extends.

Jurisdiction of ordinary Courts in cases under sections 31 and 32.

50. An offence punishable under section 31 or section 32 may be tried by a Court of Session or by the Court of a Magistrate of the first class.

Finality of proceedings under Regulation.

51. Except as provided in this Regulation, a decision passed, act done or order made under this Regulation shall not be called in question in any Civil or Criminal Court.

(*Chapter VI.—Supplemental Provisions Secs 52 54. Schedule I—Enactments repealed. Schedule II.—Offences for which Offenders are liable to Whipping.*)

XLV of 1860

52. The provisions of section 60, and of sections 63 to 74 (both inclusive), of the Indian Penal Code shall, subject to the provisions of section 15 of this Regulation, apply to sentences passed under this Regulation.

Application of provisions of Indian Penal Code respecting fines and imprisonment

53. The Local Government may make rules consistent with this Regulation for carrying into effect the purposes thereof.

Power to make rules

54. All powers conferred by this Regulation may be exercised from time to time as occasion requires.

Powers exercisable from time to time

SCHEDULE I

Regulations repealed.

(*See section 2*)

Number and year	Subject or title.	Extent of repeal
No. 1 of 1872	The Punjab Frontier Regulation	Sections 1, 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12
No IV of 1873	The Punjab Frontier Regulation Amendment Regulation	The whole
No II of 1876	The Punjab Frontier Regulation, 1876	The whole.

SCHEDULE II.

Offences referred to in section 14, sub-section (2).

XLV of 1860

1. Any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 148, 193, 194, 195, 196, 201, 211, 212, 302, 304, 307, 308, 325, 326, 328 and 354; sections 363 to 369, both inclusive; sections 376 and 377; sections 379 to 382, both inclusive; sections 392 to 399, both inclusive; sections 411 to 414, both inclusive, sections 427 to 429, both inclusive; sections 435 and 436; sections 448 to 460, both inclusive; sections 497 and 498.

2. Any offence punishable under section 31 or section 32 of this Regulation.

3. Abetment of any of the foregoing offences.

4. Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences.

REGULATION No. XIII OF 1887.

A Regulation to amend the law relating to the Tenancy of Land in the Hazára District.

Received the Governor General's assent on the 4th October, 1887; published in the Gazette of India of the 8th idem; and in the Punjab Gazette of the 13th idem.

WHEREAS it is expedient to amend the law relating to the tenancy of land in the Hazára district; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Hazára Tenancy Regulation, 1887.

(*2*) It extends to the Hazára district; and

[a](*3*) It shall come into force on the same day as the Punjab Tenancy Act, 1887, comes into force in the rest of the territories administered by the Lieutenant-Governor of the Punjab.

Repeal.

2. The Hazára Tenancy Regulation, III of 1873, and the Hazára Tenancy Regulation Amendment Regulation, III of 1874, are hereby repealed, and the Punjab Tenancy Act, 1868, shall, as regards the Hazára district, be deemed to have been repealed by the Hazára Tenancy Regulation, III of 1873, with effect on and from the tenth day of April, 1873. XXVIII of 1868.

Extension of the Punjab Tenancy Act, 1887, to Hazára subject to certain modifications.

3. The whole of the Punjab Tenancy Act, 1887, except so much of section 3 thereof as relates to the Punjab Tenancy Act, 1868, shall extend to the Hazára district, subject to the following modifications in its application thereto, namely:—

(*1*) for section 5 of that Act the following shall be substituted:—
(*Vide supra, p. 282.*)

(*2*) to section 10 of the said Act the following shall be added:—
(*Vide supra, p. 283.*)

(*3*) for the table in section 11 of the said Act the following shall be substituted:—
(*Vide supra, p. 284.*)

(*4*) for section 22 of the said Act the following shall be substituted:—
(*Vide supra, p. 287.*)

and

(*5*) in section 24, sub-section (*2*), of the said Act, for the words and figures "Punjab Tenancy Act, 1868," the words and figures "Hazára Tenancy Regulation, 1873," shall be substituted.

[a] The Punjab Tenancy Act, 1887, came into force on the 1st November, 1887—see *supra*, p. 279.

APPENDIX.

PART I.—*RULES FOR THE CONSERVANCY OF FORESTS AND JUNGLES IN THE HILL DISTRICTS OF THE PUNJAB TERRITORIES.

1. In any hill district within British jurisdiction, the civil authorities have power to mark off any tract, plot or ground, wheresoever situated, which they may consider to be specially adapted for the growth of timber or fuel.

Power to mark off ground for timber preserves.

2. The tract, plot or ground so marked off may be declared to be a public preserve, denoted by boundary-marks, fenced and protected from trespass of all kinds.

To declare preserve public, to place boundary-marks, &c.

Within it the said authorities are empowered to prohibit, restrict or regulate all felling and cutting, and to arrange for the development, preservation and growth of the trees, shrubs or brushwood, in such manner as may seem to them expedient.

To regulate felling and cutting of trees.

3. The said authorities within the said limits are also competent to grant to any party privileges of cutting or felling, and to demand and receive fees from such party, and to determine the amount or rate of the fees.

To grant privileges of cutting and felling and levy fees.

4. Within the said hill districts, the civil authorities may proclaim publicly prohibition, restriction or regulation in regard to the felling or cutting, or other injurious act for any purpose whatsoever, of any species of tree, shrub or brushwood, wheresoever it may be found growing, of whatever size or growth, whether grouped together or scattered about, which they may consider specially suited for the production of timber or fuel.

To proclaim prohibitions, &c., in regard to trees generally.

5. The said authorities, in regard to the said species of tree, shrub or brushwood, may grant privileges of felling or cutting to such parties as they may think proper, with or without the payment of fees, to be fixed as declared in rule 3.

To grant privileges of felling and cutting trees generally.

6. No person shall be entitled to object to the foregoing rules, whether

Bar to objection to

* Sanctioned by the Governor General in Council in letter of the Secretary to the Government of India, No. 1789, dated 21st May, 1855. These rules were, by Schedule I to the Punjab Laws Act, 1872, declared to be in force in the Punjab, and rules under them are still enforced in the Kangra and parts of the Hoshiarpur and Gurdaspur districts.

rules on ground of proprietary or other right.

relating to enclosures or to particular species of tree, shrub or brushwood, on the score of proprietary or manorial right: provided always that the civil authorities do not interfere with the wood or fuel that may be really required by the occupants or owners of the land for agricultural or domestic purposes.

Power to regulate operations likely to injure supplies of timber.

7. With the proviso above described, the civil authorities within the said hill districts may prohibit, restrict or regulate any operation which they may consider calculated to destroy or injure existing supplies of timber or fuel.

To prohibit firing forests, &c.

8. The setting fire to forest, grass, brushwood or other combustible substances in a manner calculated to destroy or injure existing supplies of timber or fuel may be absolutely forbidden.

Responsibility of villagers for conflagrations.

9. The villagers, the owners and occupants of the land may be rendered responsible for conflagration occurring within their bounds, whether accidental or not, or by whomsoever caused, and such owner, occupant or villager may in this case be treated as if he had been guilty of an infraction of the rules.

Power to regulate grazing of cattle and domestic animals.

10. The grazing of cattle or domestic animals of all kinds in such places, or with such license as may be, in the opinion of the civil authorities, injurious to existing supplies of timber or fuel, may be prohibited, restricted or regulated in such manner as may be deemed expedient: provided always that the proper grounds for the grazing or pasturing of such cattle be not interfered with.

Amenability of owners of cattle found illegally grazing.

11. The owner or possessor of cattle which may be found grazing or pasturing in contravention of the foregoing rule, or in public preserves, or in other forbidden ground, may be treated as if he had been guilty of an infraction of the rules.

Punishment for infringement of rules.

12. Any person who may infringe any of the above rules for the conservancy of forest and jungle may be fined at the discretion of the civil authority to an amount not exceeding Rs. 100 for each offence; such fine may be realized by sale of personal property; and, in the event of non-realization, the offender may be imprisoned for a term not exceeding three months.

Power to appoint officers to enforce rules

13. The civil authorities may appoint foresters, rangers or other officers for the purpose of enforcing these rules. Such officials shall be held to be vested with due authority to this end.

Powers of officers.

They may range over and examine all forests and jungles within their jurisdiction respectively; lay information of violation of the rules; bring persons before the civil authority who may be found infringing the said rules; and execute summonses;

Liability for abuse of authority

they will also be liable to the usual pains and penalties for the abuse of their authority.

PART II.—NOTIFICATIONS UNDER SECTIONS 3 AND 5 OF THE SCHEDULED DISTRICTS ACT, 1874.

The Scheduled Districts of the Punjab are (see *Part V of Schedule I of Act XIV of 1874*) the districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán, Dera Gházi Khán, Lahoul and Spíti, in all of which the Scheduled Districts Act, 1874, has been declared in force by the following Notification :—

No. 144 J., dated, the 18th September, 1877.—[Published, *Gazette of India*, 22nd September, 1877, Part I, p. 562, and *Punjab Gazette*, 27th September, 1877, Part II, p. 1107.]

In exercise of the power conferred by section 3 of Act XIV of 1874 (the Scheduled Districts Act), the Honourable the Lieutenant-Governor of the Punjab is pleased, with the previous sanction of the Honourable the President in Council, to declare that the said Act is in force in the Scheduled Districts of the Punjab.

I.—All Scheduled Districts.

(*a*) *Enactments declared in force.*

Year.	Number.	Subject.	Extent to which declared in force.	Notification.
1855	XIII	Compensation for Death caused by Actionable wrong.	The whole Act.	*No. 206 J.J., dated, the 13th October, 1881.*—In exercise of the power conferred by section 3 of Act XIV of 1874 (the Scheduled Districts Act), the Honourable the Lieutenant-Governor of the Punjab is pleased, with the previous sanction of the Governor General in Council, to declare that Act XIII of 1855 (*An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong*) is in force in the Scheduled Districts of the Punjab. [Published, *Gazette of India*, 15th October, 1881, Part I, p. 483, and *Punjab Gazette*, 20th October, 1881, Part II, p. 312.]

I.—All Scheduled Districts—*continued.*

(*b*) *Enactments extended.*

Year.	Number.	Subject.	Extent to which extended.	Notifications.
1850	XII	Public Accountants.	The whole Act	*No. 2833 I., dated, the 24th December, 1882.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Honourable the Lieutenant-Governor of the Punjab is pleased, with the previous sanction of the Governor General in Council, to extend Act XII of 1850 to the Scheduled Districts of the Punjab. [Published, *Gazette of India*, 29th December, 1883, Part I, p 505, and *Punjab Gazette*, 3rd January, 1884, Part II, p. 1.]
1877	I	Specific Relief	Ditto	*No. 145 J., dated, the 18th September, 1877.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Honourable the Lieutenant-Governor of the Punjab is pleased, with the previous sanction of the Honourable the President in Council, to extend Act I of 1877 (the Specific Relief Act) to the Scheduled Districts of the Punjab. [Published, *Gazette of India*, 22nd September, 1877, Part I, p. 562, and *Punjab Gazette*, 27th September, 1877, Part II, p. 1107.]
1882	[a] XIV	Civil Procedure Code.	Ditto	*No. 69 I. J., dated, the 1st June, 1882.*—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Honourable the Lieutenant-Governor of the Punjab is pleased, with the previous sanction of the Governor General in Council, to extend Act XIV of 1882 (the Code of Civil Procedure) to the Scheduled Districts of the Punjab. [Published, *Gazette of India*, 3rd June, 1882, Part I, p. 219, and *Punjab Gazette*, 8th June, 1882, Part II, p. 120.]

[a] Acts X of 1877 and XII of 1879 have been omitted from this List, as they were repealed by Act XIV of 1882, s. 3 and Sch. I.

II.—The Scheduled Districts of Házára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán and Dera Gházi Khán.

Enactments declared in force.[a]

Year.	Number.	Subject.	Extent to which declared in force.	Notifications.
1836	XXVI	Governor General's Camp Police.	The whole Act.	*No. 1071, dated, the 21st December, 1885.*—With the sanction of the Governor General in Council, the following Acts are declared, under the provisions of section 3 of Act XIV of 1874, to be in force in the following Scheduled Districts of the Punjab, namely :— Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán and Dera Gházi Khán. [Published, *Gazette of India*, 30th January, 1886, Part I, page 48, and *Punjab Gazette*, 4th February, 1886, Part II, page 21.]
1837	IV	Power to acquire land.	Ditto	Ditto.
1838	XXV	Wills executed before the 1st January, 1866.	Ditto	Ditto.
1839	XXIX	Dower, when marriage was contracted before 1st January, 1866.	Ditto	Ditto.
"	XXX	Inheritance, where descent took place before 1st January, 1866.	Ditto	Ditto.
"	XXXII	Interest	Ditto	Ditto.
1841	XIX	Curators in cases of succession.	Ditto	Ditto.
1842	IX	Lease and release	Ditto	Ditto.

[a] Acts XI of 1841, XII of 1842, XXXIII of 1852 and III of 1859 and Act XI of 1865 have been omitted from this List, as they were respectively repealed by Acts VIII of 1887, s. 2 and Sch., and IX of 1887, s. 2 and Sch. I, which extend to the whole of British India.

II.—The Scheduled Districts of Hazára, Pesháwar, Kohát, Bannú, Dera Ismáil Khán and Dera Gházi Khán—*continued.*

Enactments declared in force—continued.

Year.	Number.	Subject.	Extent to which declared in force.	Notifications.
1843	V	Slavery . .	The whole Act	*See supra*, Notification No. 1071, opposite Act XXVI of 1836.
1847	XX	Copyright . .	Ditto .	Ditto.
1850	XVIII	Protection of Judicial Officers.	Ditto .	Ditto.
,,	XIX	Binding of Apprentices.	Ditto .	Ditto.
,,	XXI	Non-forfeiture of rights by loss of caste.	Ditto .	Ditto.
,,	XXXIV	State-prisoners .	Ditto .	Ditto.
,,	XXXVII	Inquiries into behaviour of public servants.	Ditto .	Ditto.
1851	VIII	Tolls on roads and bridges.	Ditto .	Ditto.
1852	XXX	Naturalization of aliens.	Ditto .	Ditto.
1853	II	Burdens on land	Ditto .	Ditto.
,,	XIX	Recusant witnesses.	Section 26 .	Ditto.
1854	XXVI	Education of male minors subject to the superintendence of the Court of Wards.	The whole Act .	Ditto.
,,	XXXI	Barring entails, conveyances by married women.	Ditto .	Ditto.
1855	XI	Mesne profits and improvements.	Ditto .	Ditto.
,,	XII	Executors and Administrators.	Ditto .	Ditto

I.—The Scheduled Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán and Dera Gházi Khán—*continued.*

Enactments declared in force—continued.

Year.	Number.	Subject.	Extent to which declared in force.	Notifications.
1855	XXIII	Administration of mortgaged estates in cases of descents occurring or devises made before the 1st January, 1866.	The whole Act	*See supra*, Notification No. 1071, opposite Act XXVI of 1836.
"	XXIV	Penal Servitude .	Ditto .	Ditto.
"	XXVIII	Interest . .	Ditto .	Ditto.
1856	XI	Desertion by European soldiers.	Ditto .	Ditto.
"	XV	Marriage of Hindu Widows.	Ditto .	Ditto.
1857	XI	Offences against the State.	Ditto .	Ditto.
"	XXV	Forfeiture by Mutineers.	Ditto .	Ditto.
1858	III	State-prisoners .	Ditto .	Ditto.
"	XXXV	Estates of Lunatics not subject to jurisdiction of Supreme Courts.	Ditto .	Ditto.
"	XXXVI	Lunatic Asylums	Ditto .	Ditto.
"	XL	Care of persons and property of Minors.	Ditto .	Ditto.
1859	IX	Claims to property seized as forfeited.	Ditto .	Ditto.
"	XV	Patents . .	Ditto .	Ditto.
1860	XXI	Registration of Societies.	Ditto .	Ditto.
"	XXVII	Collection of debts on successions.	Ditto .	Ditto.

II.—The Scheduled Districts of Hazára, Pesháwar, Kohát, Bannu, Déra Ismáil Khán and Dera Gházi Khán—*continued.*

Enactments declared in force—continued.

Year.	Number.	Subject.	Extent to which declared in force.	Notifications.
1861	IX	Minors . .	The whole Act	*See supra*, Notification No. 1071, opposite Act XXVI of 1836.
1862	III	Government Seal	Ditto .	Ditto.
1863	XVI	Excise-duty payable on spirits used in arts and manufactures.	Ditto .	Ditto.
"	XX	To enable the Government to divest itself of the management of Religious Endowments.	Ditto .	*No. 566, dated, the 18th May, 1886.*—In exercise of the powers conferred by section 3 of the Scheduled Districts Act, 1874, the Lieutenant-Governor of the Punjab is pleased, with the previous sanction of the Governor General in Council, to declare Act XX of 1863 (*to enable the Government to divest itself of the management of Religious Endowments*) to be in force in the following Scheduled Districts of the Punjab, namely:— Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán and Dera Gházi Khán. [Published, *Gazette of India*, 5th June, 1886, Part I, p 361, and *Punjab Gazette*, 10th June, 1886, Part II, page 178.]
"	XXIII	Claim to waste lands.	Ditto .	*See supra*, Notification No. 1071, opposite Act XXVI of 1836.
"	XXXI	Gazette of India .	Ditto .	Ditto.
1864	III	Foreigners .	Ditto .	Ditto.
"	VI	Whipping .	Ditto .	Ditto.
"	XV	Tolls on public roads and bridges.	Ditto .	Ditto.
1865	III	Common Carriers	Ditto .	Ditto.
"	XV	Marriage and Divorce among Parsis.	Ditto .	Ditto.

II.—The Scheduled Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismáil Khán and Dera Gházi Khán—*concluded.*

Enactments declared in force—concluded.

Year.	Number.	Subject.	Extent to which declared in force.	Notifications.
1865	XXI	Intestate succession among Parsis.	The whole Act.	*See supra*, Notification No. 1071, opposite Act XXVI of 1836.
1866	V	Bills of Exchange, Commercial Law.	Sections 1 and 15.	Ditto.
"	XXI	Dissolution of Marriages of Native Converts.	The whole Act	Ditto.
"	XXVIII	Trustees and Mortgagees' Powers.	So far as not repealed by Act II of 1882.	Ditto.
1867	XXV	Printing Presses, &c.	The whole Act.	Ditto.
1869	XV	Evidence of Prisoners.	Ditto	Ditto.

III.—The Scheduled District of Lahoul.

(*a*) *Enactments declared in force.*[a]

Year.	Number.	Subject.	Extent to which declared in force.	Notifications.
1836	XXVI	Governor General's Camp Police.	The whole Act	*No. 396, dated, the 7th April, 1886.*—With the sanction of the Governor General in Council, the following Acts are declared, under the provisions of section 3 of Act XIV of 1874, to be in force in the Scheduled District of Lahoul in the Punjab :— [Published, *Gazette of India*, 1st May, 1886, Part I, p. 301, and *Punjab Gazette*, 6th May, 1886, Part II, p. 155.]

[a] Act XXXIII of 1852 has been omitted from this List, as it was repealed by Act VIII of 1887, s. 2 and Sch., which extends to the whole of British India.

III.—The Scheduled District of Lahoul—*continued.*

(a) *Enactments declared in force*—continued.

Year.	Number.	Subject.	Extent to which declared in force.	Notifications.
1837	IV	Powers to acquire land.	The whole Act.	*See supra*, Notification No. 396, opposite Act XXVI of 1836.
1838	XXV	Wills executed before 1st January, 1866.	Ditto .	Ditto.
1839	XXXII	Interest . .	Ditto .	Ditto.
1841	XIX	Curators in cases of succession.	Ditto .	Ditto.
1843	V	Slavery . .	Ditto .	Ditto.
1847	XX	Copyright .	Ditto .	Ditto.
1850	XVIII	Protection of Judicial Officers.	Ditto .	Ditto.
"	XXI	Non-forfeiture of rights by loss of caste.	Ditto .	Ditto.
"	XXXIV	Custody of State-prisoners.	Ditto .	Ditto.
"	XXXVII	Enquiries into behaviour of public servants.	Ditto .	Ditto.
1851	VIII	Tolls on public roads and bridges.	Ditto .	Ditto.
1852	XXX	Naturalization of Aliens.	Ditto .	Ditto.
1853	II	Burdens on Land.	Ditto .	Ditto.
1854	XXVI	Education of male Minors, &c.	Ditto .	Ditto.
1855	XII	Executors and Administrators.	Ditto .	Ditto.
"	XXVIII	Interest . .	Ditto .	Ditto.
1856	XV	Marriage of Hindu Widows.	Ditto .	D

III.—The Scheduled District of Lahoul—*continued.*

(*a*) *Enactments declared in force*—concluded.

Year.	Number.	Subject.	Extent to which declared in force.	Notifications.
1857	XI	Offences against the State.	The whole Act.	*See supra*, Notification No. 396, opposite Act XXVI of 1836.
1858	III	Arrest and Detention of Prisoners.	Ditto	Ditto.
"	XXXV	Care of the Estates of Lunatics.	Ditto	Ditto.
"	XXXVI	Lunatic Asylums.	Ditto	Ditto.
"	XL	Care of Person and Property of Minors.	Ditto	Ditto.
1860	XXVII	Collection of debts on succession.	Ditto	Ditto.
1861	IX	Minors	Ditto	Ditto.
1863	XXIII	Claims to Waste Lands.	Ditto	Ditto.
"	XXXI	Gazette of India	Ditto	Ditto.
1864	III	Foreigners	Ditto	Ditto.

(*b*) *Enactments declared not in force.*[a]

Year.	Number.	Subject.	Extent to which declared not in force.	Notifications.
1839	XXIX	Dowers when the marriage was contracted before 1st January, 1860.	The whole Act.	*No. 397, dated, the 7th April, 1886.*—With the sanction of the Governor General in Council, the following Acts are declared, under the provisions of section 3 of Act XIV of 1874, not to be in force in

[a] Acts XI of 1841, XII of 1842, III of 1859 and Act XI of 1865 have been omitted from this List, as they were respectively repealed by Acts VIII of 1887, s. 2 and Sch., and IX of 1887, s. 2 and Sch., which extend to the whole of British India.

III.—The Scheduled District of Lahoul—*continued.*

(*b*) *Enactments declared not in force*—continued.

Year.	Number.	Subject.	Extent to which declared not in force.	Notifications.
1839	XXIX —*contd.*			the Scheduled District of Lahoul in the Punjab:— [Published, *Gazette of India*, 1st May, 1886, Part I, page 301, and *Punjab Gazette*, 6th May, 1886, Part II, p. 156.]
"	XXX	Inheritance when descent took place before 1st January, 1866.	The whole Act.	Ditto.
1842	IX	Lease and Release	Ditto	Ditto.
1850	XIX	Binding of Apprentices.	Ditto	Ditto.
1853	XIX	Recusant Witnesses.	Ditto	Ditto.
1854	XXXI	Barring Entails, &c.	Ditto	Ditto.
1855	XI	Mesne profits and improvements.	Ditto	Ditto.
"	XXIII	Administration of Mortgaged Estates, &c.	Ditto	Ditto.
"	XXIV	Penal Servitude	Ditto	Ditto.
1856	XI	Desertion by European Soldiers.	Ditto	Ditto.
1857	XXV	Forfeiture by Mutineers.	Ditto	Ditto.
1859	IX	Claims to forfeited Property.	Ditto	Ditto.
"	XV	Patents	Ditto	Ditto.
1860	XXI	Registration of Societies.	Ditto	Ditto.
1862	III	Government Seal.	Ditto	Ditto.

III.—The Scheduled District of Lahoul—*concluded.*

(*b*) *Enactments declared not in force*—concluded.

Year.	Number.	Subject.	Extent to which declared not in force.	Notifications.
1863	XVI	Excise-duty on spirits used in arts.	The whole Act.	*See supra*, Notification No. 397, opposite Act XXIX of 1839.
1865	III	Common Carriers.	Ditto .	Ditto.
"	XV	Parsis' Marriage and Divorce.	Ditto .	Ditto.
"	XXI	Intestate succession among Parsis.	Ditto .	Ditto.
1866	V	Bills of Exchange	Ditto .	Ditto.
"	XXVIII	Trustees and Mortgagees' Powers.	Ditto .	Ditto.
1867	XXV	Printing Presses, &c.	Ditto .	Ditto.
1870	I	Quarantine.	Ditto .	Ditto.

Government of India Central Printing Office.—No. 141 L. D.—28-5-88.—750.—A. E. deS.

The following Books may be obtained from the Office of the Superintendent of Government Printing, No. 8, Hastings Street, Calcutta.

Super-royal 8vo, cloth, lettered.

THE INDIAN STATUTE-BOOK.

REVISED EDITION.

By Authority.

A.—GENERAL ACTS.

The General Acts from 1834 to 1866, *revised edition, 1887.* Price, R8; packing and postage, 12 annas.

The General Acts from 1867 to 1876, *revised edition, 1887.* Price, R8; packing and postage, 12 annas.

Copies of the first edition of the General Acts from 1834 to 1876 in 3 volumes can be obtained at the reduced price of R2 a volume; packing and postage, 12 annas.

The General Acts from 1877 to 1881, edition 1884. Price R8; packing and postage, 8 annas.

The General Acts for 1882 (Part I; containing Acts II to XII, both inclusive), edition 1885. Price, R8; packing and postage, 8 annas.

The General Acts from 1882 to 1884 (Part II; containing Act XIV and following Acts of 1882, and the Acts of 1883 and 1884); edition 1885. Price, R8; packing and postage, 7 annas.

B.—LOCAL REGULATIONS AND ACTS.

The Madras Code, *revised edition,* **1888.** Price, R8; packing and postage, 8 annas.

Copies of the first edition can be obtained at the reduced price of R2; packing and postage, 8 annas.

The British Burma Code, 1877. Price R3; packing and postage, 6 annas.

The Punjab Code, *revised edition,* **1888.** Price R5; packing and postage, 8 annas.

Copies of the first edition can be obtained at the reduced price of R2; packing and postage, 8 annas.

The Lower Provinces Code, Vol. I, 1878; containing Bengal Regulations and Local Acts of the Governor General's Council. Price, R8; packing and postage, 8 annas.

The Lower Provinces Code, Vol. II, 1879; containing Acts of the Lieutenant-Governor's Council and Regulations made under 33 Vic., Cap. 3. Price, R8; packing and postage, 12 annas.

Supplement to the Lower Provinces Code, 1882; containing Acts of the Governor General's Council from May, 1879, to January, 1882, and of the Lieutenant-Governor's Council from January, 1880, to

April, 1881, applying to the Lower Provinces; and Acts of the Governor General's Council and Regulations under 33 Vic., Cap. 3, applying to Assam. Price, R4-8; packing and postage, 6 annas.

The Ajmere Code, 1879. Price, R3; packing and postage, 6 annas.

The Bombay Code, 1880. Price, R8; packing and postage, 12 annas.

The Coorg Code, 1880. Price, R2; packing and postage, 6 annas.

The Central Provinces Code, 1881. Price, R4-8; packing and postage, 6 annas.

The Oudh Code, *revised edition, 1886.* Price, R5; packing and postage, 6 annas.

Copies of the first edition can be obtained at the reduced price of R2; packing and postage, 6 annas.

The North-Western Provinces Code, *revised edition, 1886.* Price, R8; packing and postage, 12 annas.

Copies of the first edition can be obtained at the reduced price of R2; packing and postage, 12 annas.

C.—STATUTES.

The Statutes relating to India, Vol. I, 1881; from 1285 to 1855. Price, R8; packing and postage, 12 annas.

The Statutes relating to India, Vol. II, 1881; from 1856 to 1881. Price, R8; packing and postage, 12 annas.

Supplement to the Statutes relating to India, 1881. Price, R3; packing and postage, 6 annas.

OTHER WORKS.

Index to the Enactments relating to India; with Chronological Tables of Statutes relating to India and the Acts and Regulations of the Indian Legislatures. Second edition, by William Fischer Agnew, Barrister-at-law. Price, R10; packing and postage, 12 annas.

Copies of the first edition, compiled by Stephen Jacob, B.C.S., can be had at R2-8; packing and postage, 12 annas.

Merchant Shipping in India; A Digest of the Statutes and Acts relating to. By T. A. Pearson, Barrister-at-law. Price, R8; packing and postage, 12 annas.

A Digest of Indian Law Cases; containing High Court Reports, 1862 to 1886, and Privy Council Reports of Appeals from India, 1836 to 1886, with an Index of Cases, by J. V. Woodman, Barrister-at-law. In 5 Volumes. Price, R50 per set; quarter-bound copies R55 (packing and postage, R3-2).